

CIVIL SERVICE COMMISSION AND DEPARTMENT OF SCIENCE AND TECHNOLOGY, REGIONAL OFFICE NO. V, PETITIONERS, VS. MARILYN G. ARANDIA, RESPONDENT.

G.R. No. 199549. April 07, 2014

Ponente: BRION, J.

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BRION, J.:

Assailed in this petition for review on certiorari[1] are the decision[2] dated June 30, 2011 and the resolution[3] dated November 25, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 100422.

The CA dismissed the administrative complaint for gross insubordination, gross neglect of duty, conduct grossly prejudicial to the best interest of public service, grave misconduct and gross inefficiency in the performance of duty filed against respondent Marilyn G. Arandia, then Administrative Officer V of the Department of Science and Technology Regional Office No. V (DOST-V) in Rawis, Legazpi City.

The Facts

In March 2000, Eriberta Nepomuceno, Regional Director of DOST-V, filed an administrative complaint[4] for gross insubordination, gross neglect of duty, conduct grossly prejudicial to the best interest of public service, grave misconduct and gross inefficiency in the performance of duty against the respondent with the Civil Service Commission Regional Office No. V (CSCRO-V), Legazpi City. Nepomuceno alleged that the respondent refused to sign, without justifiable cause, documents for the payment of certain miscellaneous and travelling expenses, phone bills, and the release of salaries and allowances of Nepomuceno and other employees of DOST-V.

In her answer[5] to the complaint, the respondent justified her refusal to sign and attributed it to the failure of Nepomuceno and the other concerned employees to submit sufficient supporting documents for their claims for reimbursement and the release of their salaries and allowances.

On March 22, 2002, a Formal Charge[6] was issued against the respondent for the offenses of grave misconduct, gross insubordination and conduct prejudicial to the best interest of the service. These offenses were committed as follows:

- That Marilyn G. Arandia intentionally refused to sign boxes A not only of the disbursement vouchers as payment for the approved and official travelling expenses to Manila of Director Eriberta B. Nepomuceno for the period from October 20-28, 1999, but also that of the vouchers as payments for the official travelling expenses incurred by Accountant Remegia Caluya and Budget Officer Susana Bertes from October 26-28, 1999 and that of the disbursement voucher as payment for the official travel to Manila of Dr. Felina D. Ferro from February 20 to 25, 2000;
- That Arandia refused to sign box A of the disbursement voucher as payment for the actual services rendered by one Jobert Mejillano from October 18 to 30, 1999 and from November 16 to 30, 1999;
- That Arandia continuously refused to sign box A of the disbursement voucher as cash advance payment for

diesel expenses to be incurred by Director Nepomuceno while on official travel to Manila from February 18 to 22, 2000 in the amount of P3,000.00 of P4,301.00 for the primary reason that Eriberta N. Navera is the authorized and recognized person who can get cash advance and not Eliberta (sic) B. Nepomuceno

In Bringas-Dayson, Carmencita Giselle E.B., CSC Resolution no. 96-2351 the Commission said that “xxx a judicial decree of nullity of a previous marriage is not necessary before a woman can resume using her maiden name. No law require that a judicial decree of nullity of a previous marriage be obtained by a married woman in order to validly use her maiden name;”

- That Arandia vehemently refused to obey various directions of Director Nepomuceno on the approval of telephone call slip for the two division chiefs per memorandum dated 6 March 2000 and on the issuance directing Arandia to immediately turn-over all documents under her direct supervision and the exchange of room assignments with the duly constituted Administrative Officer-Designate pursuant to Special Order No. 023, s. of 2000 (dated 9 June 2000); and;

- That on December 15, 1999 and February 16, 2000, Arandia, respectively, refused to sign box A of the disbursement voucher, to the prejudice of the interest of the service, as payment for the registration fee of three (3) participants to the two-day training on the “Revised Policies on Performance Evaluation System” and “Updates on Civil Service Matters.”[7]

In an Order[8] dated April 26, 2006, Director Cecilia R. Nieto of CSCRO-V found respondent guilty of conduct prejudicial to the best interest of the service only and imposed on her the penalty of suspension for six months and one day. The respondent filed a motion for reconsideration but Director Nieto denied the motion in a subsequent order[9] dated June 8, 2006. She then appealed her case to the Civil Service Commission (CSC) National Office.

Ruling of the CSC

The CSC partially found merit in respondent’s appeal. In a Resolution No. 070801 dated April 23, 2007,[10] the CSC made the following findings:

After careful evaluation of the records of the case, the Commission finds no substantial evidence to hold Arandia guilty of Conduct Prejudicial to the Best Interest of the Service.

x x x x

First, it must be first pointed out that Arandia was held liable for Conduct Prejudicial to the Best Interest of the Service for her refusal to sign “box A” of various disbursement vouchers pertinent to the transactions of her office, namely, the disbursement vouchers for official travelling expenses of the complainant Director Nepomuceno for her trip to Manila covering the period of October 20 to 28, 1999, the disbursement vouchers for the travelling expenses of Remegio Caluya (Accountant) and Susana Ferro (Budget Officer) from October 26-28, 1999, and that of Felina Ferro from February 20-25, 2000 and the disbursement voucher for the payment of the salary of Jobert Mejillano for the period of October 18-30, 1999 and November 16-30, 1999. The records are replete with evidence that indeed Arandia had justifiable reasons in not signing these disbursement vouchers.

It must be emphasized that the functions performed by Arandia are not merely clerical in nature, neither are they ministerial. The Position Description Form (PDF) of Arandia as Administrative Officer V states “supervises and coordinates accounting functions, budget operation and control.” Clearly, these functions require a degree of discretion which is even more amplified considering that it involves the disbursement of public funds. x x x

Clearly, the provisions of the foregoing law [referring to Section 171 of the GAAM] rendered Arandia to be more circumspect in (sic) performance of the duties of her office, specifically in affixing her signatures on undocumented disbursements. This circumspection with regard to her duties cannot be classified as an undue

prejudice to the best interest of the service, thus making her liable for the offense.

Also, her cautious attitude in approving disbursements is not without basis. Records show that in the audit conducted by the DOST Central Office for the period January to August 1999 signed by then DOST Assistant Secretary Imelda D. Rodriguez yielded adverse findings with regard to the transactions of DOST Region V. In the said report, it was indicated that: "The findings covered disbursement of public funds principally approved by Regional Director Eriberta N. Navera, which indicate a pattern of dishonesty, consisting largely of claims of the Regional Director which are unnecessary, irregular, excessive and extravagant. The disbursements indicate, likewise, a pattern of wanton disregard for accounting and auditing rules and regulations involving other finance officials such as the Budget Officer and the Accountant."

With respect to the salary of Jobert Mejillano, Arandia did not affix her signature in box of the disbursement voucher, since there was no valid basis to do so. This Commission in Memorandum Circular No. 46., s. 1990 (Prohibiting the Practice of Issuing Job Orders in Hiring Casuals) prohibits the hiring of Job Orders in hiring casuals. In DOST Memorandum dated May 24, 1999, then Assistant Secretary Imelda D. Rodriguez, instructed all Directors of DOST, to comply strictly with the aforementioned CSC memorandum circular. Thus, Arandia cannot be held liable for her refusal to sign the said disbursement voucher considering that she merely obeyed the DOST memorandum prohibiting the hiring of casuals thru job orders.

x x x x

Records are bereft of any showing that the aforementioned requirements [referring to Section 168 of the GAAM] have been complied with. In fact, the audit investigation conducted by the DOST Central Office showed that DOST Regional Office No. V incurred several unnecessary, irregular, excessive and extravagant disbursement of public funds. Thus, Arandia, in refusing (sic) affix her signature was exercising her prudent discretion, which by reason of the office she holds, was incumbent upon her.

On the issue of the (sic) Arandia's refusal to sign the appropriate box in the disbursement voucher for the travelling expenses for the period of January 20-February 14, 2000 of Director Eriberta Nepomuceno, the Commission likewise finds Arandia's refusal valid. While it is true that Arandia was furnished a copy of the (sic) Director Nepomuceno's affidavit that the latter is reverting to her maiden name, records show that Arandia relied on the opinion of the Assistant Secretary when she refused to sign the same. In fact, Arandia requested for a legal opinion from then DOST Assistant Secretary Apolonio B. Anota Jr., with regard to the procedure to be followed. In a Memorandum addressed to Director Nepomuceno dated February 28, then Assistant Secretary Anota relying on Articles 371-373 of the Civil Code replied:

"Considering that our records show that your appointment paper, oath of office and other official documents are clear that the one appointed to, and who assumed, the position of Regional Director DOST Regional Office 5 carries the name ERIBERTA N. NAVERA, the following requirements should be complied with before we can consider that the person bearing said name and ERIBERTA NEPOMUCENO is one and the same: xxx

"For the meantime, this Department will be recognizing all acts and official matters coming from the Regional Director, DOST 5 under the official name ERIBERTA N. NAVERA only." [11]

These findings, notwithstanding, the CSC still found the respondent liable for insubordination for her refusal to obey several memoranda issued by Nepomuceno requiring her to immediately turn-over the documents under her supervision to the new Administrative Officer-Designate, Engr. Manuel Sn. B. Lucena, Jr., and to comply with the exchange of room assignment (as well as the memoranda directing her to answer or submit an explanation for her refusal) brought about by the respondent's reassignment from the position of Administrative Officer to Planning Officer.

It appears that, on August 29, 1999, Nepomuceno issued Special Order No. 32 designating the respondent as Planning Officer and Co-Division Chief of the Technical Services Division of DOST-V, which order was

temporarily suspended (pending a motion for clarification) and then re-issued on June 9, 2000 as Special Order No. 23. The respondent filed a motion for reconsideration questioning her reassignment on June 27, 2000.

Also, the CSC found that the respondent refused to comply with an office memorandum dated March 6, 2000 requiring her and another Division Chief, to secure Nepomuceno's approval/signature before using the office telephone. For these reasons, the CSC found the respondent guilty of two counts of insubordination and imposed on her the penalty of three months suspension.[12] The respondent filed a motion for reconsideration which the CSC denied; thus, the appeal with the CA.

Ruling of the CA

In its assailed decision, the CA ruled in the respondent's favor and dismissed the administrative complaint filed against the respondent after it found that she actually complied with the subject office memoranda:

Immediately upon receipt of such denial [referring to the denial of the respondent's motion for reconsideration to her reassignment], petitioner [respondent herein] complied with Nepomuceno's order and forwarded to Engr. Lucena pertinent documents in her possession. This is evinced by the Letter dated 28 June 2000 detailing the list of documents entrusted into the custody of Engr. Lucena, The Letter speaks for itself as it ineluctably established that petitioner complied with her superior's order – to turn over pertinent documents despite her reluctance to relinquish her post as Administrative Officer V.

Next, the records unearthed that it was Engr. Lucena who was hesitant, if not, unwilling to exchange room assignments with petitioner. His Letter dated 28 February 2002 to Nepomuceno cannot be any clearer – This is to request retention of my present room assignment at PMES for the very reason that key ASD officers' (Accountant, Budget Officer and Supply Officer) offices are already located on the first floor adjacent to it. It would be most convenient and advantageous to all if we were to be located near one another for an efficient and effective flow of official transactions.

I hope that this will merit your kind approval.

This was followed by another missive explaining at greater length why he was skeptic in exchanging rooms with petitioner –

Anent your memo dated 1 August 2003 of same subject, may I request that my transfer to TSD Room be temporarily put aside for the following reasons:

1. As I repeatedly conveyed to you, taking into consideration my assignment in planning where a lot of concentration is needed, movement and sound common in a shared room easily distract me. My previous Directors recognized it that is why I am assigned in this present room since 1996. And the whole are including the computer room is assigned to PMES and IT where I also belong as its Project Manager. We worked as a team.
2. Scattering me and my Team members in PMES-IT will effectively destroy our teamwork to the detriment of the projects and in total contrast to sound management practice of teamwork and team building. Also, I can easily attend to the computer server LAN-internet requirements together with and/or in the absence of Mr. Serrano because it is just within the same work area.

x x x x

How then could petitioner transfer to Engr. Lucena's room given that it was the latter who refused to surrender his office space? Petitioner found herself in an apparent cul-de-sac as she was unable to move in to Engr. Lucena's room through no fault of her own.[13]

The CA likewise found that the respondent did not violate the March 6, 2000 memorandum that required her to

seek clearance from the Regional Director's Office before making any phone call because at the time the respondent made the contested telephone calls, she had not yet received any copy of the memorandum.

The Issue

The sole issue raised in the present petition for review on certiorari is the respondent's liability for insubordination.

Our Ruling

We find the present petition partially meritorious. The respondent is guilty of simple insubordination.

Insubordination is defined as a refusal to obey some order, which a superior officer is entitled to give and have obeyed. The term imports a willful or intentional disregard of the lawful and reasonable instructions of the employer.[14]

In this case, the respondent committed insubordination when she failed to promptly act on the June 16, 2000 memorandum[15] issued by her superior, Regional Director Nepomuceno, reminding her of her duties to immediately turn-over documents to and exchange room assignments with the new Administrative Officer-Designate, Engr. Lucena. The subject memorandum was a lawful order issued to enforce Special Order No. 23, s. of 2000 reassigning the respondent from Administrative to Planning Officer, and which warranted the respondent's obedience and compliance.

The reiteration of the directives in the June 16, 2000 memorandum in several succeeding memoranda issued by Nepomuceno (dated June 19, 2000,[16] June 23, 2000[17] and June 26, 2000),[18] all the more demonstrates the respondent's inaction and non-compliance with her superior's orders. The records show that it was only on June 28, 2000 that the respondent complied with the document turn-over through a letter addressed to Engr. Lucena containing a list of personnel files, human resource management and general administration documents under her accountability.[19]

We see in the respondent's initial inaction her deliberate choice not to act on the subject memoranda; she waited until the resolution of her motion for reconsideration of her reassignment (that she filed on June 27, 2000) before she actually complied. The service would function very inefficiently if these types of dilatory actions would be allowed.

As for the memorandum on the use of the office telephone, we find, as the CA did, the charge against the respondent unmeritorious. Though the subject memorandum was issued on March 6, 2000, the respondent's office received it only on March 7, 2000 at around 10 o'clock in the morning.[20] Thus, respondent could not have committed a violation for the telephone calls she made earlier that day.

Insubordination is a less grave offense punishable by suspension of one month and one day to six months.[21] Since we merely found the respondent guilty of insubordination in not promptly complying with the memoranda for the turn-over of documents, we find the suspension of one month and one day as sufficient penalty for her offense.

Considering, however, that respondent is no longer with DOST-V and is now working abroad, we can no longer impose on her the penalty of suspension from service. In lieu thereof, we impose on the respondent the penalty of a fine of one month salary, which amount is to be deducted from her retirement benefits or from whatever benefits, if any, that she is still entitled to receive after her resignation. If there is none, the respondent is ordered to pay the fine directly to and within the period to be directed by the CSC.

WHEREFORE, premises considered, we find Marilyn G. Arandia GUILTY of INSUBORDINATION and

impose on her the penalty of a FINE equivalent to her one month salary.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

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

[2] Rollo, pp. 13-25; Penned by Associate Justice Japar B. Dimaampao, with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Jane Aurora C. Lantion, concurring.

[3] Rollo, pp. 80-81.

[4] Id. at 113-124.

[5] Id. at 125-136.

[6] Docketed as AC No. CSRO5-D-J00-018; id. at. 137-138.

[7] Id. at 137-138.

[8] Id. at 141-146.

[9] Id. at 147-149.

[10] Id. at 150-163.

[11] Id. at 159-161.

[12] Id. at. 162.

[13] Id. at 74-76.

[14] Judge Dalmacio-Joaquin v. Dela Cruz, A.M. No. P-07-2321, April 24, 2009.

[15] Id. at 193.

[16] Id. at 194.

[17] Id. at 162.

[18] Id.

[19] Id. at 202-204.

[20] Id. at 23.

[21] Revised Uniform Rules on Administrative Cases in the Civil Service, Memorandum Circular No. 19, s. of 1999.

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