

REPUBLIC OF THE PHILIPPINES, (DEPARTMENT OF EDUCATION, CULTURE & SPORTS, CHILD & YOUTH RESEARCH CENTER), AND LUZ G. PALATTAO-CORPUZ, PETITIONERS, VS. COURT OF APPEALS AND JOSE P...

G.R. No. 86147. February 26, 1990

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This Petition for Review on Certiorari seeks the reversal of the Decision of the Court of Appeals (Fourth Division),[*] dated 7 December 1988, affirming the "Partial Decision" of the Regional Trial Court, Branch 135, Makati, Metro Manila, dated 24 September 1986, ordering petitioner Luz B. Palattao-Corpuz to take official cognizance of the attendance of private respondent Jose P. Lopez, Jr., at the Child and Youth Research Center (CYRC); to pay his salaries and benefits from 23 April 1985 "to date": and remanding the case to the Court of origin for further proceedings on the issue of damages.

Petitioner Corpuz and Respondent Lopez, Jr., were the former Director and Assistant Director, respectively, of the now defunct Child and Youth Research Center (CYRC) of the Department of Education, Culture and Sports (DECS). Petitioner Corpuz is a Doctor of Medicine while Respondent Lopez is a Bachelor of Laws graduate but not yet a member of the Bar.

Petitioner Republic of the Philippines (DECS/CYRC) has joined Petitioner Corpuz in this case, on the ground that the acts for which she is taken to task by Respondent Lopez have been performed in her official capacity.

The "bad blood" between the parties commenced when Respondent Lopez protested Petitioner Corpuz' appointment as CYRC Director on the ground that he had a better right to the position. The dismissal of that protest by the Civil Service Commission was affirmed by this Court. Then followed a series of cases, approximately forty-nine (49) in all, filed by Respondent Lopez against Petitioner Corpuz and/or some of the CYRC Staff before different judicial and administrative fora. The charges ranged from those of graft, grave misconduct, dishonesty, inefficiency, and grave abuse of discretion. Most of the cases were dismissed, however, for having been found to be frivolous except one case before the Ombudsman (TBP-86-00-1) involving the same facts as in this case, which is awaiting the outcome herein.

On 11 July 1984, then MECS Minister Jaime C. Laya "temporarily detailed" Respondent Lopez to the MECS Legal Office until further advice "in the exigencies of the service." Sometime later, he was transferred to the Planning Service Office of the MECS, it appearing that he was facing charges before the Legal Division, which he however, denied.

The records disclose that on 16 April 1985, Domingo B. Nunez, Research Specialist and Chief of the Intellectual Emotional Development Research Unit of the CYRC, tendered his resignation as such "because I cannot stand the harassment of the Assistant Director, Mr. Jose P. Lopez, is doing to us employees. I am afraid I cannot continue

working with dignity and with peace of mind in such situation." In another letter of the same date, Joseph D. de los Santos, Senior Educational Researcher of the CYRC, also reported on an act of harassment on his person by Respondent Lopez and concluding "I doubt whether I can stay long enough with the office with this kind of environment." On 7 May 1985, the "CYRC Staff Personnel and Contractual Employees" of the CYRC wrote the Education Minister calling attention to the "prevailing sick situation in the Office" and complaining against the acts of harassment "being done to the employees of this Office by the Asst. Director, causing more harm than good."

After about 6-1/2 months of re-assignment, Respondent Lopez wrote a letter to Minister Laya expressing his intention to resume his official position as CYRC Assistant Director. Having received no response, he returned to the CYRC as Assistant Director on 18 February 1985 without official authorization.

This prompted Petitioner Corpuz to issue two (2) Memoranda on 21 February 1985. The first was addressed to the CYRC Staff advising that Respondent Lopez would not be considered an active member of the Staff until he first secured the proper authorization for his transfer. The other was addressed to Lopez himself requesting him to submit an official order terminating his "detail." In his reply, dated 22 February 1985, Respondent Lopez insisted on the validity of his resumption of office stating that "no one can be detailed for more than three (3) months without the written consent of the employee concerned" and that "detailed assignment beyond six (6) months has to be approved by the CSC and the Office of the President." He also admonished Petitioner Corpuz to recall and/or rectify her memoranda.

On 27 February 1985, Petitioner Corpuz again issued two Memoranda, one disputing Respondent Lopez's reply and the other reiterating her stand that until he secured an authorization from the MECS Minister to return to the CYRC, she would not consider him an active member of its Staff.

On 6 March 1985, Respondent Lopez wrote a letter to the then MECS Deputy Minister requesting clarification on the matter. The same advice as to the necessity of prior authorization was given.

On 15 March 1985, Petitioner Corpuz addressed another memorandum to Respondent Lopez insisting on his compliance with her directive and requiring him, effective on the same date, to submit a record of his attendance duly signed by the Chief of the MECS Planning Service or an approved application for leave of absence before he could be entitled to his salary. Just the same, Petitioner allowed the payment of Respondent's salaries and allowances for the period 18 February 1985 to 22 April 1985, but withheld those corresponding to the period 23 April to 14 August 1985 because of Respondent's refusal to comply with her directive to return to the MECS Central Office.

On 1 April 1985, Respondent Lopez filed a Petition for Mandamus with Damages against Petitioner Corpuz, Minister Laya, and the Chief, Administrative Services, before the Regional Trial Court (RTC), Branch 135 of Makati, Metro Manila. During the pendency of the case or, on 7 August 1985, then Minister Laya advised Respondent Lopez that his "temporary detail" in the Planning Service Office of the Ministry had been rectified to "temporary assignment" effective 3 September 1984, to continue until further advice, and that approval from the office should first be secured before returning to the CYRC. Respondent requested such clearance but since it was left unanswered, he returned to the MECS Central Office presumably around 14 August 1985.

On 1 September 1985, Respondent Lopez dropped Minister Laya as defendant in his Second Amended Petition leaving Petitioner Corpuz as the lone defendant.

In a 1st Indorsement, dated 16 October 1985, Petitioner Corpuz was informed by the Deputy Minister of Education that the Ministry had approved the release of Respondent's salaries for the period 23 April to 14 August

1985. This was reiterated by Minister Laya in his Fifth Indorsement, dated 9 December 1985. Similarly, on 20 March 1986, then Secretary Lourdes Quisumbing ordered such payment but the same was later reconsidered and recalled upon query from Petitioner Corpuz regarding the matter.

On 24 September 1986, the RTC of Makati, Branch 135, rendered a "Partial Decision" ordering Petitioner Corpuz to take official cognizance of Respondent Lopez's attendance at the CYRC: to pay his salaries corresponding to the period from 23 April 1985 "to date": and setting the case for further hearing to determine the actual amount of damages allegedly sustained by him.

Petitioner appealed to Respondent Court of Appeals. During the pendency thereof, the CYRC was abolished and both Petitioner and Respondent were retired from Government service. Nevertheless, neither one could draw retirement benefits in view of the pendency of this suit.

On 7 December 1988, the Court of Appeals affirmed in toto the appealed RTC judgment.

On 24 February 1989, this Petition was filed, to which we gave due course. We required the filing of Memoranda, the last of which was submitted on 20 October 1989.

The crucial issues for determination are: (1) whether or not Petitioner Corpuz was justified in refusing to take official cognizance of Respondent Lopez's attendance as Assistant Director at the CYRC and in withholding his salaries corresponding to the period; and (2) whether or not she can be held liable in damage's for such acts.

Upon the facts, we rule for Petitioner Corpuz.

It will be recalled that Respondent Lopez returned to the CYRC at his own instance without any authorization from higher authorities. Petitioner Corpuz as CYRC Director, officially advised him to secure that clearance, but he adamantly refused to obey a directive from his immediate superior. Under the circumstances, Petitioner Corpuz as head of the office, was left with no alternative but to withhold recognition of his attendance at the CYRC. To maintain discipline in the office, and in the interests of the service, she could do no less.

Respondent Appellate Court, however, affirmed the finding of the Trial Court that the DECS Minister's directive to Respondent Lopez was "defective" in that the term "detail" was used instead of "re-assignment," which would have been the proper terminology. Indeed, a "detail" is the movement from one Department or Agency to another which is temporary in nature (Section 4, Rule VI, Civil Service Rules on Personal Actions and Policies) whereas a "reassignment" is the movement of an employee from one organizational unit to another in the same Department or Agency (Section 5, *ibid.*). Be that as it may, the official intent of the directive was clear — to move Respondent Lopez away from the CYRC and locate him in the head office, "in the exigencies of the service." Besides, proper rectification was made by Minister Laya on 7 August 1985 retroactive to 3 September 1984.

Both lower Courts opined, however, that the "re-assignment" was stage-managed by Petitioner Corpuz under the pretext of "exigencies of the service." Notably, the directive to Respondent Lopez was not issued by her but by the Education Minister himself. It is inconceivable that the latter official would have allowed himself to have been used as such an unwitting tool. On the contrary, he must have been aware of the "sick situation" in the CYRC, hence, the re-assignment of Respondent Lopez to another unit in the Education Ministry.

As matters stood, Respondent Lopez brought upon himself the withholding of his salaries. When he reported back to the CYRC on 18 February 1985 he did so at his own instance without prior authorization. He was advised to secure such clearance on 21 February 1985 but he refused. The directive to obtain the same was reiterated on 27 February 1985 by Petitioner Corpuz. Instead of complying, he addressed a letter on 6 March 1985 to the Deputy Minister requesting clarification. He was given the same opinion. On 15 March 1985, he was again reminded and

was required to submit a record of his attendance duly signed by the Chief of the MECS Planning Services or an approved application for leave of absence before he could be entitled to his salary. He reacted by stating that was "superfluous." And when he did comply, discrepancies were discovered between his submissions and those in the CYRC logbook. Respondent Lopez was himself, therefore, recreant in complying with the requirements for the release of his salaries.

It is true that Petitioner Corpuz had issued memoranda, dated 19 December 1985 and 7 January 1986, suggesting that Respondent Lopez withdraw his suit for Mandamus in order to expedite the release of his salaries. For this, she deserves censure specially since it was done "against the advice of her counsel." Mitigating such sanction, however, is the provocation given by Respondent Lopez, his open defiance of authority, and oppressive behavior towards his co-employees.

It is inaccurate for Respondent Lopez to allege that he was paid his salaries for 18 February to 22 April 1985 without submission of his official time records. As certified to by the CYRC Disbursing Officer on 22 May 1985, he received his salary for the second half of March 1985 on 2 April 1985 after he submitted his time card for the month of March. It was only from 23 April 1985 to 14 August 1985 that his salaries and allowances were again withheld upon petitioner's instructions after she had received official confirmation from MECS in the latter's 1st Indorsement, dated 22 April 1985, that prior MECS authorization was in fact, required before he could return to the CYRC. In this connection, it was reversible error, therefore, for both lower Courts to have ordered payment of Respondent's salaries from 23 April 1985 "to date."

Petitioner Corpuz had not acted in bad faith in seeking clarification of the directives to pay issued by the Education Department. Those were given only during the pendency of the case below besides the fact that the order of Secretary Lourdes Quisumbing, who succeeded Minister Laya, to pay Respondent Lopez's salaries was later withdrawn by her for further review.

In fine, Petitioner Corpuz' refusal to take official cognizance of Respondent Lopez' attendance at the CYRC beginning 18 February 1985 was justified because it was clearly unauthorized and in rebellious defiance of a Departmental directive. The Ministry itself came out with a definite position on the matter only around 15 March 1985. Having acted by virtue of her authority to administer the affairs of the defunct CYRC, adjudgment of damages against her is uncalled for as this would virtually be a charge against the Republic of the Philippines, a sovereign state which is not amenable to judgment for monetary claims without its consent (*Garcia v. Armed Forces of the Philippines, et al.*, L-20213, January 31, 1966, 16 SCRA 120; *Syquia v. Almeda Lopez*, 84 Phil. 312 [1949]; *Sarasola v. Trinidad*, 40 Phil. 252 [1919]). The mere allegation that a government functionary is being sued in his personal capacity will not automatically remove him from the protection of the law of public officers and, if appropriate, the doctrine of state immunity. For there can be no legal right against the authority which makes the law on which the right depends (*Sanders vs. Veridiano II*, G.R. No. 46930, 10 June 1988, 162 SCRA 88).

WHEREFORE, this Petition is GRANTED and the Court of Appeals' judgment under review, promulgated on 7 December 1988, is hereby SET ASIDE. No costs.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Per Justices Arturo B. Buena (ponente), Santiago M. Kapunan and Eduardo R. Bengzon.

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