

**UNIVERSITY OF THE PHILIPPINES AND UP SCHOOL OF ECONOMICS,
PETITIONERS, VS. THE HON. TEODORO P. REGINO, PRESIDING
JUDGE, RTC, BR. 84 NATIONAL CAPITAL REGION, Q.C., ANGEL
PAMPLINA...**

G.R. No. 88167. May 03, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

Private respondent Angel Pamplina, a mimeograph operator at the University of the Philippines School of Economics, was dismissed on June 22, 1982, after he was found guilty of dishonesty and grave misconduct for causing the leakage of final examination questions in Economics 106 under Prof. Solita Monsod.[1]

His appeal was denied by the UP Board of Regents, prompting him to seek relief from the Merit Systems Board (MSB), created under Presidential Decree No. 1409. Under Section 5(1) thereof, the MSB has the power to “hear and decide administrative cases involving officers and employees of the civil service.”

The University of the Philippines filed a motion to dismiss for lack of jurisdiction on the part of the MSB. UP relied heavily on the case of *University of the Philippines vs. Court of Appeals*,[2] where it was held that administrative matters involving the discipline of UP employees properly fall under the jurisdiction of the state university and the UP Board of Regents.

The motion was denied. Thereafter, in its decision dated July 5, 1985, the MSB exonerated Pamplina and ordered his reinstatement with back wages.[3] UP, represented by its Office of Legal Services, moved for reconsideration, but this was denied on January 10, 1986.

UP then appealed to the Civil Service Commission, which on November 4, 1987, issued Resolution No. 87-428, sustaining the MSB.[4] The motion for reconsideration was denied on April 13, 1988.

On June 10, 1988, the petitioners, through their new counsel of record, the Office of the Solicitor General (OSG), filed a second motion for reconsideration. This was also denied on August 31, 1988, on the basis of Section 39(b) of PD 807, providing in part that “only one petition for reconsideration shall be entertained” by the Civil Service Commission.

Pamplina filed a “Manifestation and Motion for Execution of Judgment” of the Commission, copy of which was received by the Office of the Solicitor General on October 4, 1988.[5] This was opposed by the petitioners, but in an order dated November 7, 1988, the Commission granted the motion. Nevertheless, Pamplina was still not reinstated. UP claimed that the resolutions of the Commission had not yet become final and executory.

Pamplina’s reaction was to file a petition for a writ of mandamus on November 11, 1988. Judge Teodoro P. Regino of the Regional Trial Court of Quezon City granted the petition on April 27, 1989. The respondents (herein petitioners) were ordered to immediately reinstate Pamplina “to his former position as mimeograph

operator without change of status as permanent employee with back wages from June 22, 1982, up to his reinstatement, plus salaries for the period of his preventive suspension covering December 15, 1981 to March 15, 1982.”[6]

On June 19, 1989, the present petition for certiorari was filed with this Court to seek the annulment of the decision of the trial court and the orders of the Commission directing the reinstatement of Pamplina. The petitioners also pray that the decision of the UP President and Board of Regents ordering Pamplina’s dismissal be upheld.

UP contends that under its charter, to wit, Act 1870, enacted on June 18, 1908, it enjoys not only academic freedom but also institutional autonomy. Section 6(e) of the said Act grants the UP Board of Regents the power “to appoint, on recommendation of the president of the university, professors, instructors, lecturers, and other employees of the university, to fix their compensation and to remove them for cause after an investigation and hearing shall have been had.” Pamplina was dismissed by virtue of this provision.

The Civil Service Law (PD 807) expressly vests in the Commission appellate jurisdiction in administrative disciplinary cases involving members of the Civil Service. Section 9(j) mandates that the Commission shall have the power to “hear and decide administrative disciplinary cases instituted directly with it in accordance with Section 37 or brought to it on appeal.” And Section 37(a), provides that, “The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty (30) days, or fine in an amount exceeding thirty days’ salary, demotion in rank or salary or transfer, removal or dismissal from office.” (Emphasis supplied)

Under the 1972 Constitution, all government-owned or controlled corporations, regardless of the manner of their creation, were considered part of the Civil Service.[7] Under the 1987 Constitution only government-owned or controlled corporations with original charters fall within the scope of the Civil Service pursuant to Article IX-B, Section 2(1), which states:

The Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with original charters.”

As a mere government-owned or controlled corporation, UP was clearly a part of the Civil Service under the 1973 Constitution and now continues to be so because it was created by a special law and has an original charter. As a component of the Civil Service, UP is therefore governed by PD 807 and administrative cases involving the discipline of its employees come under the appellate jurisdiction of the Civil Service Commission.

Coming now to the petition itself, we note that the petitioners received a copy of the resolution denying their motion for reconsideration on April 22, 1988.

In Article IX-A, Section 7, of the 1987 Constitution, which was already in effect at that time, it is provided that:

x x x Unless otherwise provided by this Constitution or by law, any decision, order or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

This provision was reproduced almost verbatim in Section 28 of the Administrative Code of 1987.

The petitioners therefore had thirty days from April 22, 1988, or until May 22, 1988, within which to elevate their case to this Court. They did not do so and instead filed a second motion for reconsideration, which was not allowed under Article IX, Section 39(b) of PD 807. On top of this, the second motion for reconsideration was filed only on June 10, 1988, or 19 days beyond the 30-day reglementary period.[8]

In this connection, it is stressed that where a motion for reconsideration of a decision, order or ruling of any

Constitutional Commission is denied, the 30-day reglementary period does not begin anew. The petitioner has only the balance of that period (after deducting the time elapsed before the motion was filed) to come to this Court on certiorari.

The assailed orders having become final and executory, Pamplina had every right to seek mandamus to compel their execution. Respondent Judge Regino was quite correct when he issued the questioned writ.

The case cited repeatedly by the petitioners, viz. *University of the Philippines vs. Court of Appeals*,^[9] cannot apply to the present controversy. The reason is that at the time it was promulgated on January 28, 1971, PD 807 had not yet been enacted. PD 807 took effect only in 1975.

In ruling in that case “that the President and Board of Regents of the University of the Philippines possess full and final authority in the disciplining, suspension and removal of the civil service employees of the University, including those of the Philippine General Hospital, independently of the Commissioner of Civil Service and the Civil Service Board of Appeals,” Justice J.B.L. Reyes relied on the Civil Service Law of 1959, which then empowered the Civil Service Commission:

Except as otherwise provided by law, to have final authority to pass upon the removal, separation and suspension of all permanent officers and employees in the competitive or classified service and upon all matters relating to the conduct, discipline, and efficiency of such officers and employees; and to prescribe standards, guidelines and regulations governing the administration of discipline; (Emphasis supplied)

Article V, Section 9(j), of PD 807 simply gives the Commission the power to “hear and decide administrative disciplinary cases instituted directly with it in accordance with Section 37 or brought to it on appeal,” without the qualifying phrase appearing in the above-quoted provision. The petitioners cannot invoke that phrase to justify the special power they claim under Act 1870.

WHEREFORE, the instant petition for certiorari is **DISMISSED** and the assailed decision of respondent Judge Teodoro P. Regino dated April 27, 1989, and the challenged orders of the Civil Service Commission, are **AFFIRMED**, with costs against the petitioners. It is so ordered.

Narvasa, C.J., Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Nocon, Bellosillo, Melo, and Quiason, JJ., concur.
Romero, J., no part.

[1] Decision of UP President Edgardo J. Angara dated June 22, 1982, Rollo, pp. 30-31.

[2] 37 SCRA 64.

[3] Rollo, pp. 88-94. Decision penned by Commissioner Alfredo B. Deza with the concurrence of Commissioners Villones and Amilhasan.

[4] Rollo, pp. 119-124. Resolution penned by Commissioner Celerino G. Gotladera with the concurrence of Commissioners Yango and Deza.

[5] Rollo, p. 202.

[6] *Ibid.*, pp. 190-195.

[7] Article XII-B, Section 1(1).

[8] Rollo, p. 171.

[9] Supra.

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