

FROILAN A. MENDEZ, PETITIONER, VS. CIVIL SERVICE COMMISSION AND REGISTER OF DEEDS OF QUEZON CITY, RESPONDENTS.

G.R. No. 95575. December 23, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari seeking to nullify and set aside the decision of the Civil Service Commission (CSC) and the Merit Systems Protection Board (MSPB) which reversed the decision of the Mayor of Quezon City, dismissing the charges filed against the petitioner Froilan A. Mendez for Gross Misconduct and Dishonesty.

The facts of the case are briefly as follows:

On June 7, 1984, then Acting Register of Deeds of Quezon City Vicente N. Coloyan filed an administrative complaint against the petitioner, a legal research assistant in the Quezon City Office of the City Attorney, for Gross Misconduct and Dishonesty, allegedly for having torn off a portion of Transfer Certificate of Title No. 209287 from the registry book of Quezon City and for having pocketed it.

After three months of investigation or on October 14, 1985, then Quezon City Mayor Adelina Rodriguez dismissed the said complaint against the petitioner for insufficiency of evidence.

Coloyan appealed to the MSPB which rendered judgment on March 16, 1989, the dispositive portion of which reads -

"WHEREFORE, premises considered, the appealed decision is hereby reversed. Respondent Froilan A. Mendez is hereby found guilty as charged and dismissed from the service." (p. 4, Rollo)

Said decision was affirmed by the CSC on appeal.

The petitioner filed a motion for reconsideration, assailing the reversal of the city mayor's decision by the MSPB and the CSC on the ground that Coloyan is not an aggrieved party or "party adversely affected by the decision" allowed by law to file an appeal. Moreover, the petitioner claimed that his exoneration by the city mayor is unappealable pursuant to Section 37, paragraph (b) of P.D. 807.

The CSC, however, denied said motion for reconsideration ruling that there is nothing in the said law which precludes an appeal from the decision of the disciplining authorities to determine, among others, whether the decision rendered is supported by the facts on record and the law.

Hence, the present petition.

We find merit in the petition.

It is axiomatic that the right to appeal is merely a statutory privilege and may be exercised only in the manner and in accordance with the provision of law. (*Victorias Milling Co., Inc. vs. Office of the Presidential Assistant for Legal Affairs*, 153 SCRA 318).

A cursory reading of P.D. 807, otherwise known as "The Philippine Civil Service Law" shows that said law does not contemplate a review of decisions exonerating officers or employees from administrative charges.

Section 37 paragraph (a) thereof, provides:

"The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office. x x x" (underscoring supplied) (p. 7, Rollo)

Said provision must be read together with Section 39 paragraph (a) of P.D. 805 which contemplates:

"Appeals, where allowable, shall be made by the party adversely affected by the decision x x x." (underscoring supplied) (p. 104, Rollo)

The phrase "party adversely affected by the decision" refers to the government employee against whom the administrative case is filed for the purpose of disciplinary action which may take the form of suspension, demotion in rank or salary, transfer, removal or dismissal from office. In the instant case, Coloyan who filed the appeal cannot be considered an aggrieved party because he is not the respondent in the administrative case below.

Finally, pursuant to Section 37 paragraph (b) of P.D. 807, the city mayor, as head of the city government, is empowered to enforce judgment with finality on lesser penalties like suspension from work for one month and forfeiture of salary equivalent to one month against erring employees.

By inference or implication, the remedy of appeal may be availed of only in a case where the respondent is found guilty of the charges filed against him. But when the respondent is exonerated of said charges, as in this case, there is no occasion for appeal.

WHEREFORE, the decision of the CSC is hereby ANNULLED or SET ASIDE and the decision of the Quezon City Mayor is hereby REINSTATED.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Cruz, Feliciano, Padilla, Bidin, Grino-Aquino, Medialdea, Regalado, Davide, Jr., and Romero, JJ., concur.

Gutierrez, J., in the result.

Nocon, J., no part.

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