

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), PETITIONER,
VS. CIVIL SERVICE COMMISSION, HEIRS OF ELIZAR NAMUCO, AND
HEIRS OF EUSEBIO MANUEL, RESPONDENTS.***G.R. No. 96938. October 15, 1991*

Ponente: NARVASA, J.

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In May, 1981, the Government Service Insurance System (GSIS) dismissed six (6) employees as being "notoriously undesirable," they having allegedly been found to be connected with irregularities in the canvass of supplies and materials. The dismissal was based on Article IX, Presidential Decree No. 807 (Civil Service Law)[1] in relation to LOI 14--A and/or LOI No. 72. The employees' Motion for Reconsideration was subsequently denied.

Five of these six dismissed employees appealed to the Merit Systems Board. The Board found the dismissals to be illegal because effected without formal charges having been filed or an opportunity given to the employees to answer, and ordered the remand of the cases to the GSIS for appropriate disciplinary proceedings.

The GSIS appealed to the Civil Service Commission. By Resolution dated October 21, 1987, the Commission ruled that the dismissal of all five was indeed illegal and disposed as follows:

"WHEREFORE, it being obvious that respondents' separation from the service is illegal, the GSIS is directed to reinstate them with payment of back salaries and benefits due them not later than ten (10) days from receipt of a copy hereof, without prejudice to the right of the GSIS to pursue proper disciplinary action against them. It is also directed that the services of their replacement be terminated effective upon reinstatement of herein respondents.

“ * * * * * . ”

Still unconvinced, the GSIS appealed to the Supreme Court (G.R. Nos. 80321-22). Once more, it was rebuffed. On July 4, 1988 this Court's Second Division promulgated a Resolution which:

a) denied its petition for failing to show any grave abuse of discretion on the part of the Civil Service Commission, the dismissals of the employees having in truth been made without formal charge and hearing, and

b) declared that reinstatement of said five employees was proper, "without prejudice to the right of the GSIS to pursue proper disciplinary action against them;"

c) MODIFIED, however, the challenged CSC Resolution of October 21, 1987 "by eliminating the payment of back salaries to private respondents (employees) until the outcome of the disciplinary proceedings is known, considering the gravity of the offenses imputed to them * * * ;"[2]

d) ordered reinstatement only of three employees, namely: Domingo Canero, Renato Navarro and Belen Guerrero, "it appearing that respondents Elizar Namuco and Eusebio Manuel have since passed away."[3]

On January 8, 1990, the aforesaid Resolution of July 4, 1988 having become final, the heirs of Namuco and Manuel filed a motion for execution of the Civil Service Commission Resolution of October 21, 1987, *supra*. The GSIS opposed the motion. It argued that the CSC Resolution of October 21, 1987 — directing reinstatement of the employees and payment to them of back salaries and benefits — had been superseded by the Second Division's Resolution of July 4, 1988 — precisely eliminating the payment of back salaries.

The Civil Service Commission granted the motion for execution in an Order dated June 20, 1990. It accordingly directed the GSIS "to pay the compulsory heirs of deceased Elizar Namuco and Eusebio Manuel for the period from the date of their illegal separation up to the date of their demise." The GSIS filed a motion for reconsideration. It was denied by Order of the CSC dated November 22, 1990.

Once again the GSIS has come to this Court, this time praying that certiorari issue to nullify the Orders of June 20, 1990 and November 22, 1990. Here it contends that the Civil Service Commission has no power to execute its judgments and final orders or resolutions, and even conceding the contrary, the writ of execution issued on June 20, 1990 is void because it varies this Court's Resolution of July 4, 1988.

The Civil Service Commission, like the Commission on Elections and the Commission on Audit, is a constitutional commission invested by the Constitution and relevant laws not only with authority to administer the civil service,[4] but also with quasi-judicial powers.[5] It has the authority to hear and decide administrative disciplinary cases instituted directly with it or brought to it on appeal.[6] The Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution, subject to appeal to the Supreme Court on certiorari by any aggrieved party within thirty days from receipt of a copy thereof.[7] It has the power, too, sitting en banc, to promulgate its own rules concerning pleadings and practice before it or before any of its offices, which rules should not however diminish, increase, or modify substantive rights.[8]

On October 9, 1989, the Civil Service Commission promulgated Resolution No. 89-779 adopting, approving and putting into effect simplified rules of procedure on administrative disciplinary and protest cases, pursuant to the authority granted by the constitutional and statutory provisions above cited, as well as Republic Act No. 6713.[9] Those rules provide, among other things,[10] that decisions in "administrative disciplinary cases" "shall be immediately executory unless a motion for reconsideration is seasonably filed. If the decision of the Commission is brought to the Supreme Court on certiorari, the same shall still be executory unless a restraining order or preliminary injunction is issued by the High Court." [11] This is similar to a provision in the former Civil Service Rules authorizing the Commissioner, "if public interest so warrants, * * * (to) order his decision executed pending appeal to the Civil Service Board of Appeals," [12] The provisions are analogous and entirely consistent with the duty or responsibility reposed in the Chairman by PD 807, subject to policies and resolutions adopted by the Commission, "to enforce decision on administrative discipline involving officials of the Commission," [13] as well as with Section 37 of the same decree declaring that an appeal to the Commission [14] "shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal in the event he wins an appeal."

In light of all the foregoing constitutional and statutory provisions, it would appear absurd to deny to the Civil Service Commission the power or authority to enforce or order execution of its decisions, resolutions or orders which, it should be stressed, it has been exercising through the years. It would seem quite obvious that the authority to decide cases is inutile unless accompanied by the authority to see that what has been decided is carried out. Hence, the grant to a tribunal or agency of adjudicatory power, or the authority to hear and adjudge cases, should normally and logically be deemed to include the grant of authority to enforce or execute the judgments it thus renders, unless the law otherwise provides.

In any event, the Commission's exercise of that power of execution has been sanctioned by this Court in several cases.

In *Cucharo v. Subido*,^[15] for instance, this Court sustained the challenged directive of the Civil Service Commissioner, that his decision "be executed immediately but not beyond ten days from receipt thereof * * * ." The Court said:

"As a major premise, it has been the repeated pronouncement of this Supreme Tribunal that the Civil Service commissioner has the discretion to order the immediate execution in the public interest of his decision separating petitioner-appellant from the service, always subject however to the rule that, in the event the Civil Service Board of Appeals or the proper court determines that his dismissal is illegal, he should be paid the salary corresponding to the period of his separation from the service until his reinstatement."

Petitioner GSIS concedes that the heirs of Namuco and Manuel "are entitled to the retirement/death and other benefits due them as government employees" since, at the time of their death, they "can be considered not to have been separated from the service."^[16]

It contends, however, that since Namuco and Manuel had not been "completely exonerated of the administrative charge filed against them — as the filing of the proper disciplinary action was yet to have been taken had death not claimed them" — no back salaries may be paid to them, although they "may charge the period of (their) suspension against (their) leave credits, if any, and may commute such leave credits to money value;"^[17] this, on the authority of this Court's decision in *Clemente v. Commission on Audit*.^[18] It is in line with these considerations, it argues, that the final and executory Resolution of this Court's Second Division of July 4, 1988 should be construed;^[19] and since the Commission's Order of July 20, 1990 makes a contrary disposition, the latter order obviously cannot prevail and must be deemed void and ineffectual.

This Court's Resolution of July 4, 1988, as already stated, modified the Civil Service Commission's Resolution of October 21, 1987 — inter alia granting back salaries to the five dismissed employees, including Namuco and Manuel — and pertinently reads as follows:

"We modify the said Order, however, by eliminating the payment of back salaries to private respondents until the outcome of the disciplinary proceedings is known, considering the gravity of the offense imputed to them in connection with the irregularities in the canvass of supplies and materials at the GSIS.

The reinstatement order shall apply only to respondents Domingo Canero, Renato Navarro and Belen Guerrero, it appearing that respondents Elizar Namuco and Eusebio Manuel have since passed away. * * *."

On the other hand, as also already stated, the Commission's Order of June 20, 1990 directed the GSIS "to pay the compulsory heirs of deceased Elizar Namuco and Eusebio Manuel for the period from the date of their illegal separation up to the date of their demise."

The Commission asserted that in promulgating its disparate ruling, it was acting "in the interest of justice and for other humanitarian reasons," since the question of whether or not Namuco and Manuel should receive back salaries was "dependent on the result of the disciplinary proceedings against their co-respondents in the administrative case before the GSIS," and since at the time of their death, "no formal charge ** (had) as yet been made, nor any finding of their personal culpability * * * and * * * they are no longer in a position to refute the charge."

The Court agrees that the challenged orders of the Civil Service Commission should be upheld, and not merely upon compassionate grounds, but simply because there is no fair and feasible alternative in the circumstances. To be sure, if the deceased employees were still alive, it would at least be arguable, positing the primacy of this

Court's final dispositions, that the issue of payment of their back salaries should properly await the outcome of the disciplinary proceedings referred to in the Second Division's Resolution of July 4, 1988.

Death, however, has already sealed that outcome, foreclosing the initiation of disciplinary administrative proceedings, or the continuation of any then pending, against the deceased employees. Whatever may be said of the binding force of the Resolution of July 4, 1988 so far as, to all intents and purposes, it makes exoneration in the administrative proceedings a condition precedent to payment of back salaries, it cannot exact an impossible performance or decree a useless exercise. Even in the case of crimes, the death of the offender-extinguishes criminal liability, not only as to the personal, but also as to the pecuniary, penalties if it occurs before final judgment.[20] In this context, the subsequent disciplinary proceedings, even if not assailable on grounds of due process, would be an inutile, empty procedure in so far as the deceased employees are concerned; they could not possibly be bound by any substantiation in said proceedings of the original charges: irregularities in the canvass of supplies and materials. The questioned orders of the Civil Service Commission merely recognized the impossibility of complying with the Resolution of July 4, 1988 and the legal futility of attempting a post-mortem investigation of the character contemplated.

WHEREFORE, the petition is DISMISSED, without pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Melencio-Herrera, J., on leave.

[1] Sec. 40 of said PD 807 (sub-head, Summary Proceedings) provides that "No formal investigation is necessary and the respondent may be immediately removed or dismissed if any of the following circumstances is present: (a) When the charge is serious and the evidence of guilt is strong; (b) When the respondent is a recidivist or has been repeatedly charged and there is reasonable ground to believe that he is guilty of the present charge; (c) When the respondent is notoriously undesirable. * * *." (Italics supplied.) However, said Section 40 has since been repealed by R.A. No. 6654, approved on May 20, 1988 and published in the Official Gazette on May 30, 1988 (Abalos v. Civil Service Commission, et al., G.R. No. 95861, April 19, 1991)

[2] Italics supplied

[3] Italics supplied

[4] SECS. 1, (1), 2 (1), 3, ART. IX-B, 1987 Constitution

[5] Secs. 1, 6, 7, ART. IX-A, 1987 Constitution; SEE Secs. 659-661, Revised Administrative Code and CA 598 (repealed by RA 2260, which act was in turn repealed by PD 807, the Civil Service Decree of the Philippines); Secs. 9, 11, 27 to 39, PD 807

[6] SEC. 9 (j), PD 807; SEE Sec. 16 (f), (g), (i) and (j); and SECS. 32 and 33 of RA 2260

[7] SEC. 7, ART. IX, Constitution

[8] SEC. 6, ART. IX, Constitution; SEE Sec. 9 (b), PD 807

[9] "An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, * * *," requiring inter alia that public officials and employees shall simplify and systematize policy, rules and procedures and avoid red tape to better serve the public

[10] SEC. 3, Rule X (Decision) under the sub-head, "A. Rules on Administrative Disciplinary Cases"

[11] As regards "protest cases," the Rules similarly provide that decisions therein of the Commission "shall be executory, unless a motion for reconsideration is seasonably filed, in which case the execution of the decision shall be held in abeyance" (Sec. 1, Rule VIII ["Execution of Decision"] under the sub-head, "B. Rules on Protest Cases."

[12] SEC. 28, under the sub-head, "D. Procedure in Administrative Proceedings," Rule XVIII ("Discipline")

[13] Sec. 10 (a) (3)

[14] In "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"

[15] 37 SCRA 523, citing SEC. 35, Civil Service of Act of 1959; *Yarcia v. City of Baguio*, 33 SCRA 419; *Trocio v. Subido*, 20 SCRA 354; *Cabigao v. del Rosario*, 6 SCRA 578 (1962); *Austria v. Auditor General*, 19 SCRA 79, 83-84; *Gonzales v. Hernandez*, 2 SCRA 228, 233--234)

[16] Rollo, p. 7; p. 40; p. 8 of petitioner's "Reply to Comment" dated May 29, 1991

[17] *Id.*, p. 7; pp. 39-40; pp. 7-8, *id.*

[18] 128 SCRA 297, citing *Octot v. Ibañez, et al.*, 111 SCRA 79 and *San Miguel Corporation v. Secretary of Labor*, 64 SCRA 56

[19] SEE footnotes 2 and 3 and related text, *supra*

[20] ART. 89 (No.1), Revised Penal Code

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