

MARIO A. NAVARRO, PETITIONER, VS. CIVIL SERVICE COMMISSION AND EXPORT PROCESSING ZONE AUTHORITY, RESPONDENTS.*G.R. Nos. 107370-71. September 16, 1993*

Ponente: BELLOSILLO, J.

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On 21 June 1989, cable drums worth P21,250.00 owned by Takaoka Engineering Construction Co., Ltd., were stolen from the Ford Stockyard inside the Bataan Export Processing Zone (BEPZ) in Mariveles, Bataan. One suspect in the heist, petitioner Mario A. Navarro, then a Police Officer of respondent Export Processing Zone Authority (EPZA) at BEPZ, was administratively charged with grave misconduct. Upon recommendation of BEPZ Local Board of Inquiry, Discipline and Promotion finding him guilty as charged the Senior Deputy Administrator of EPZA, with the approval of the Administrator, issued on 18 October 1990 an Order terminating the services of Navarro.

Navarro went on appeal to the Merit Systems Protection Board (MSPB) of the Civil Service Commission. In its Decision of 25 July 1991, MSPB set aside the 18 October 1990 Order of the Senior Deputy Administrator and directed the reinstatement of Navarro with payment of back wages and other benefits due him from the time of his dismissal. Respondent EPZA moved for reconsideration but the same was denied in a MSPB Decision of 11 December 1991.

Meanwhile, the criminal case filed against Navarro and his co-accused Rolando Lapitan and Primo Espino, Jr., for qualified theft was dismissed by the Regional Trial Court of Bataan, Branch 4, Balanga, Bataan, in its Decision of 6 November 1990.[1]

EPZA sought reversal of the MSPB decision before respondent Civil Service Commission (CSC). On 16 July 1992 CSC set aside MSPB's Decision of 11 December 1991, found Navarro guilty of grave misconduct and reimposed on him the penalty of dismissal. Navarro's motion for reconsideration was denied in the CSC's Resolution of 10 September 1992.

In this recourse, Navarro claims that respondent CSC acted with grave abuse of discretion amounting to excess or lack of jurisdiction "x x x x in relying in part on the sworn statement of Rolando Lapitan which was totally rejected by the Regional Trial Court of Bataan for having been taken in violation of the constitutional rights of the accused x x x x in relying in part on the sworn statement of Constantino Lorenzo which was taken in violation of the constitutional rights of the affiant x x x x in totally rejecting the sworn statements of Rolando Lapitan and Constantino Lorenzo recanting their previous sworn statements although the subsequent statements were given voluntarily and at a time when the affiants were totally free from duress and fear x x x x in utilizing only a selected portion of the testimony given by Constantino Lorenzo before the Office of the Provincial Prosecutor of Bataan and instead of considering the entire testimony and Lorenzo's recanting sworn statements x x x x (and) in deciding the case without considering other pertinent evidence of record."

Respondent EPZA filed its own comment praying for the dismissal of the petition. The Office of the Solicitor

General (OSG) on the other hand filed a manifestation supporting the plea of the petitioner, arguing that no appeal may be taken from MSPB decision exonerating Navarro from the administrative charge. On 6 May 1993, we granted CSC ten (10) days to comment but the period expired on 1 July 1993 without a comment filed.[2] On 5 August 1993, CSC filed a motion for extension of time of ten (10) days within which to comment which was noted on 17 August 1993 but no action was taken thereon as it was filed more than a month late.

After deliberation and giving due course to the petition we proceed to decide the case without requiring memoranda as it appears that the manifestation of the OSG is meritorious.

It is undisputed that MSPB rendered a favorable decision for Navarro and this fact alone should have prevented EPZA from appealing to the Commission on the basis of prevailing jurisprudence. In the ponencia of Associate Justice Jose A.R. Melo in *Benigno V. Magpale, Jr. v. Civil Service Commission*,^[3] which the OSG quoted at length in its manifestation, we stated that under P.D. 807, or "The Philippine Civil Service Law," the CSC has no appellate jurisdiction over MSPB's decisions exonerating officers and employees from administrative charges, citing *Mendez vs. Civil Service Commission*.^[4] In *Mendez* we explained:

"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' (italics 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' (italics 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."

In *Paredes vs. Civil Service Commission*,^[5] also cited in *Magpale*, we further explained that:

"x x x the complainant is not the party adversely affected by the decision so that she has no legal personality to interpose an appeal to the Civil Service Commission. In an administrative case, the complainant is a mere witness (*Gonzalo v. D. Roda*, 64 SCRA 120). Even if she is the Head of the Administrative Services Department of the HSRC as a complainant she is merely a witness for the government in an administrative case. No private interest is involved in an administrative case as the offense is committed against the government."

As it is clear that both public respondents acted without jurisdiction - EPZA, for appealing MSPB's decision exonerating Navarro from the administrative charge and CSC, for taking cognizance of, and deciding, the appeal - the issuance of the writ of certiorari is inevitable.

WHEREFORE, the petition for certiorari is GRANTED and the decision of respondent Civil Service Commission of 16 July 1992 and its resolution of 10 September 1992 are hereby SET ASIDE. The decisions of the Merit

Systems Protection Board of 25 July 1991 and 11 December 1991 are REINSTATED and AFFIRMED.

SO ORDERED.

Cruz, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Melo, Quiason, Puno, and Vitug, JJ., concur.

Narvasa, C.J. and Feliciano, J., on official leave.

[1] The other co-accused, Jesus Francisco, Arnulfo Gulfo and Ernesto Cuenco, were at large.

[2] Per Registry Return Receipt Card, our Resolution was received by CSC on 21 June 1993.

[3] G.R. No. 97381, 5 November 1992, En Banc.

[4] G.R. No. 95575, 23 December 1991; 204 SCRA 965, 967-968.

[5] G.R. 88177, 4 December 1990 and companion case; 192 SCRA 84, 98-99.

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