



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ATTY. RODOLFO D. MATEO,
Complainant,

G.R. No. 177875

Present:

- versus -

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, JJ.

EXECUTIVE SECRETARY
ALBERTO G. ROMULO,
DEPUTY EXECUTIVE
SECRETARY ARTHUR P. AUTEA,
PRESIDENTIAL ANTI-GRAFT
COMMISSION, OFFICE OF THE
PRESIDENT, JOSE J. BELTRAN,
EVELYN F. DACUYCUY, C.G.
DUMATAY, HIGINO C.
MANGOSING, JOEY C. CASTRO,
PACITA F. BARBA, RICARDO
OLARTE, BELEN I. JUAREZ, LIZA
T. OLIVAR, LUISA C. BOKINGO,
SANDRO JESUS T. SALES,
EDGARDO T. AGBAY, EDUARDO
F. PACIO, MILDRED V. BEADOY,
FRANCIS B. HILARIE, MA.
NERIZZA L. BERDIN, LUIS S.
RONGAVILLA, ARLENE C. DIAZ,
MARY JANE M. LAPIDEZ,
MELCHOR P. ABRIL, VILMA A.
VERGARA, MA. ISABEL S.
NOFUENTE, BEATRIZ N.
SORIANO, MA. ANNABELLE S.
LUSUNG, JAIME M. NOFUENTE,
ERLINDA RIZO, MA. CHARINA S.
GONZALES, LILIAN P. GACUSAN,
MA. ANGELICA R. RONGAVILLA,
EVELYN V. AYSON, CHARITO M.

Promulgated:

AUG 08 2016

**MENGUI TO, ARLEEN E. BATA C,
RENATO R. RIZO, EDUARDO D.
ADINO, MILAGROS M. VELASCO,
BELEN T. TORMON, RENATO P.
GOJO CRUZ and EMMIE L.
RUALES,**

Respondents.

X

X

DECISION

BERSAMIN, J.:

The failure of a public servant to disclose in his personal data sheet (PDS) the fact of his conviction by final judgment of a crime punished with *reclusion temporal* is guilty of dishonesty, and may be dismissed from the service even if the charge is committed for the first time.

Antecedents

The petitioner was first employed on May 28, 1990 by the National Water Resources Board (NWRB) as Attorney IV. He was later appointed as Executive Director of NWRB, and took his oath of office as such on January 29, 2002.

On April 4, 2003, 38 NWRB employees (respondents herein) lodged a complaint affidavit with the Presidential Anti-Graft Commission (PAGC) charging the petitioner with dishonesty, usurpation of authority and conduct prejudicial to the interest of the service.¹ They alleged therein that he had not disclosed the existence of a prior criminal conviction for homicide in his PDS on file with the NWRB; that he had approved and issued numerous water permits without or in excess of his authority, or in conflict with prior action by the Board; and that he had approved and issued certificates of public convenience without the certificates being first passed upon by the Board as a collegial body; that he had been indiscriminately reassigning personnel in complete disregard of their rank, status and safety to purposely dislocate them; and that he had acted without due process in certain disciplinary actions taken against subordinates.

Finding sufficient basis to commence an administrative investigation against the petitioner, the PAGC required him to file a counter-affidavit or answer to the complaint. He complied on May 26, 2003.²

¹ *Rollo*, pp. 84-85.

² *Id.* at 86-90.

After the formal hearing, the PAGC ordered the parties to submit their respective memoranda or position papers on or before June 9, 2003. Only the respondents filed their memorandum/position paper.³

Findings of the PAGC

The PAGC issued its resolution dated June 25, 2003, whereby it found the petitioner administratively liable as charged.

On the allegation of falsification of the PDS, the findings of the PAGC were as follows:

In Respondent Mateo's Personal Data Sheet, dated March 12, 1997 (Rollo, pp 629), Item No. 25 states that "Have you been convicted of any crime or violated any law, decree, ordinance or regulations by any court or tribunal?" The answer is a mark [x] on the printed box provided for the NO answer. Similarly, in Respondent's Personal Data Sheet, dated November 6, 2000, (Rollo, p. 630), Item No. 26, states that – "Have you ever been convicted of any crime or violation of any law, degree [sic], ordinance or regulations by any court or tribunal?" The answer is a mark [x] printed on the box provided for the NO answer.

At this point, it must be stated that herein Respondent Mateo was charged of Homicide (Criminal Case No. 93594) before the Court of First Instance of Manila, now Regional Trial Court, Branch VIII. Subsequently, he was convicted of the same crime and sentenced on August 10, 1976 by the same court, to serve 6 years and 1 day imprisonment to a maximum of 14 years, 8 months and 1 day imprisonment and to pay an indemnity of P12,000.00 (Rollo, pp. 650-651) Thereafter, herein Respondent was granted conditional pardon by then President Ferdinand E. Marcos, on June 12, 1979. Respondent was then discharged from the New Bilibid Prison, Muntinlupa, Rizal, on July 1979.⁴

The PAGC observed that the penalty of *reclusion temporal* imposed on the petitioner included the accessory penalty of perpetual absolute disqualification from holding public office or employment; and that such accessory penalty remained even if the petitioner had been pardoned, unless the pardon expressly remitted such accessory penalty.⁵ It went on to explain that although the records showed that he had been granted a conditional pardon, the terms of the pardon did not expressly restore his right to hold public office or to have public employment; hence, he was not eligible to be appointed to his posts in the NWPB. It concluded that his failure to disclose the truth in his PDS had constituted dishonest conduct prior to entering the government service and had caused undue injury to the Government; and that he should be dismissed from the service considering that his dishonesty,

³ Id. at 99.

⁴ Id. at 100.

⁵ Id. at 101.

albeit not committed in the course of the performance of duty, had still affected his right to continue in office.⁶

Anent the charge of usurpation of authority, the PAGC indicated that Article 80 of the *Water Code of the Philippines* authorized the NWRB to deputize any official or government agency to perform any of its specific functions or activities;⁷ that during its March 11, 2002 meeting, the Board had resolved as follows:

- a. “to authorize the Executive Director to grant Temporary Permits for the appropriation of water pursuant to Section 26, Rule 1 of Implementing Rules and Regulations of the Water Code of the Philippines (PD 1067)” (Resolution No. 1313-A (As Amended))
- b. “to grant authority to the Executive Director of NWRB to sign all decisions made by the Board.” (Resolution No. 1424-A (As Amended))
- c. “to authorize the Executive Director to pass upon application/petition for power cost adjustment, using as guidelines Board Resolution No. 03-0591 provided that, the Board shall be informed of the action made on the matter. Provided, further that the resulting Billing Multiplier shall not exceed 5%.” (Resolution No. 01-0593-A (As Amended))
- d. “to authorize the Executive Director to approve water permit applications for 0.05 lps and below excepting those applications for golf courses, industrial purposes, big projects and with formal oppositions or legal protests.” (Resolution No. 02-0499-A) (As Amended)⁸

that the petitioner had issued Office Order No. 26 on September 11, 2002 stating in part that the Executive Director would be the official who would approve all Water Rights Permits and Certificates of Public Convenience and Necessity by virtue of the failure of the Board to convene; that such approval was valid and had the same effect as if approved by the Board itself, subject to the confirmation by the Board once it reconvened legally; that from September 2002 to January 2003, he had signed and approved 324 water permit applications despite the applications exceeding the 0.05 LPS limit imposed by NWRB Resolution No. 02-0499-A; and that such acts constituted grave misconduct on his part.⁹

As to the allegation that the petitioner had reassigned personnel without authority, the PAGC considered the Office Orders dated February 6, 2002 and February 23, 2003, and the Memorandum dated February 3, 2003 as having been issued under the pretext of reorganization within the agency;

⁶ Id. at 101-102.

⁷ Id. at 104.

⁸ Id.

⁹ Id. at 104-105.

that no such reorganization had been undertaken; that, consequently, he had taken upon himself to reassign and transfer the detail of certain office personnel without the approval of the Board; that such action had been in violation of the Civil Service Laws and Republic Act No. 6656; and that he had also suspended two employees for insubordination, but the suspensions were without legal basis without the Board's approval, pursuant to NWRB Resolution dated March 11, 2002.¹⁰

Opining that the narration of facts by the respondents as the complainants was substantial evidence adequate to support the conclusion that the petitioner was liable as charged, the PAGC recommended to the President that the penalty of dismissal from the service with forfeiture of retirement benefits and perpetual disqualification from reemployment in the government service be imposed on the petitioner.¹¹

Ruling of the Office of the President (OP)

The matter was elevated to the OP, which rendered the resolution dated August 20, 2003 through Deputy Executive Secretary Arthur P. Autea, whereby the OP concurred with the findings and recommendation of the PAGC. The OP stated that the charge of dishonesty alone already warranted the dismissal of the petitioner from the service even if committed for the first time; and that he had actually committed dishonesty on two separate occasions by having falsely denied his conviction of any crime or violation of law by a competent court or tribunal¹² in the two PDSs filed in 1997 and 2000. Accordingly, it affirmed his dismissal from the service with forfeiture of retirement and all other benefits, observing that there was no need to decree his disqualification from reemployment in the government service because his perpetual disqualification stemming from his criminal conviction still stood.¹³

The petitioner sought reconsideration, claiming that he had been also granted an absolute pardon on May 27, 1987 by President Corazon C. Aquino; that he had relied in good faith on such absolute pardon completely erasing his criminal conviction, thereby removing the need for him to disclose his conviction in his PDSs; and that evidence had not been presented in his case because the PAGC did not conduct formal hearings.¹⁴

The OP denied the motion for reconsideration, holding that the PAGC did actually conduct formal hearings in which the petitioner had been given

¹⁰ Id. at 106-107.

¹¹ Id. at 109-110.

¹² Id. at 118.

¹³ Id.

¹⁴ Id. at 120.

the opportunity to be heard; that he had participated in the hearings by filing his verified answer to the complaint; that he had also been accorded the opportunity to submit his memorandum or position paper, but he had failed to do so;¹⁵ that he had been silent about the absolute pardon granted by President Aquino on May 27, 1987, alleging it for the first time only in the motion for reconsideration; and that the pardon, being the private act of the President, must still be pleaded and proved by him as the person claiming to have been pardoned.¹⁶

Decision of the Court of Appeals (CA)

The petitioner appealed to the CA, docketed as CA-G.R. SP No. 80689, insisting that the OP and the PAGC had committed serious errors of fact and law; had exceeded their jurisdiction; and had gravely abused their discretion in not affording him his constitutional right to confront his accusers, thereby violating his right to administrative due process. He assailed the public respondents for recommending and ordering his dismissal without factual, legal, and evidentiary basis.¹⁷

The CA promulgated its assailed decision on October 30, 2006,¹⁸ denying the petition for review and affirming the ruling of the OP. The CA held that the essence of administrative due process was an opportunity to be heard, or to explain one's side, or to seek the reconsideration of the action or ruling complained of;¹⁹ that the petitioner had been given the opportunity to be heard; that the PAGC had conducted formal hearings in which he had submitted his verified answer to the complaint; that he had been ordered to submit his memorandum or position paper, but he had failed to do so; that the requirements of due process in administrative proceedings were not the same as those in judicial proceedings because the trial-type proceedings, with an opportunity for face-to-face confrontation, were not necessary in administrative proceedings; that it sufficed for a party to be afforded the ample opportunity to present his side;²⁰ that the penalty imposed on him had been based on the finding to the effect that he had been truly guilty of dishonesty, usurpation of authority and conduct prejudicial to the best interest of the service; that such factual findings by the OP in the exercise of its quasi-judicial function were to be generally accorded respect; and that the OP did not gravely abuse its discretion because the resolutions in question had not been issued arbitrarily or in disregard of the evidence on record.²¹

¹⁵ Id. at 120.

¹⁶ Id. at 121.

¹⁷ Id. at 133-134.

¹⁸ Id. at 49-60; penned by Associate Justice Arturo G. Tayag (retired), and concurred in by Associate Justice Remedios A. Salazar-Fernando and Associate Justice Noel G. Tijam.

¹⁹ Id. at 53.

²⁰ Id. at 53-54.

²¹ Id. at 55.

Issues

In this appeal, the petitioner raises the following issues, to wit:

A

THE RESPONDENTS RECOMMENDED AND/OR ORDERED THE DISMISSAL OF PETITIONER FROM PUBLIC SERVICE WITHOUT AFFORDING THE LATTER HIS CONSTITUTIONAL RIGHT TO CONFRONT HIS ACCUSERS AND WITHOUT AFFORDING HIM ADMINISTRATIVE DUE PROCESS.

B

THE RESPONDENTS RECOMMENDED AND/OR IMPOSED THE VERY HARSH PENALTY OF DISMISSAL FROM SERVICE WITHOUT VALID FACTUAL, LEGAL AND EVIDENTIARY BASIS.

Ruling of the Court

The petition for review on *certiorari* lacks merit.

Firstly of all, the petitioner contends that the right to due process in administrative proceedings should include the right to confront his accusers; that he invoked his right to confrontation and sought a formal hearing through his motion for reconsideration in the OP; and that the violation of his rights rendered any evidence presented against him inadmissible.

We cannot uphold the contention of the petitioner. As the CA correctly pointed out, administrative due process simply means the opportunity to be heard or to explain one's side, or to seek a reconsideration of the action or ruling complained of. For him to insist on a formal trial-type hearing in which he could confront his accusers was bereft of legal basis considering that he had been duly notified of the complaint against him and of the formal hearings conducted by the PAGC. He had also filed his answer to the complaint and participated in the formal hearings. For sure, the trial-type hearing was not indispensable in administrative cases. The requirements of administrative due process were satisfied once the parties were afforded the fair and reasonable opportunity to explain their respective sides. The administrative agency could resolve the issues based solely on position papers, affidavits or documentary evidence submitted by the parties.²²

Secondly, it is notable that the petitioner did not raise in his answer to the complaint the absolute pardon purportedly granted to him by President Aquino; that he did not also submit proof on the absolute pardon in the

²² *Samalio v. Court of Appeals*, G.R. No. 140079, March 31, 2005, 454 SCRA 462, 472-473.

hearings held before the PAGC; that he did not file his memorandum or position paper despite being ordered to do so; and that he did not advert to the absolute pardon when the case had been elevated to the OP. Being the part plainly at fault, his unexplained failure to submit his evidence could not be counted against the PAGC.

In reality, the petitioner's plea of good faith vis-à-vis the charge of dishonesty, in that the absolute pardon had led him to believe that he no longer needed to divulge the conviction in his PDSs, was unworthy of credence. For one, he was quite aware that the penalty meted on him upon his conviction was *reclusion temporal*, which, pursuant to Article 41 of the *Revised Penal Code*, carried with it the accessory penalties of civil interdiction during the period of the sentence, and of **perpetual absolute disqualification** that he would suffer "*even though pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon.*" Under Article 30 of the *Revised Penal Code*, the effects of the accessory penalty of perpetual absolute disqualification included the following:

1. The deprivation of the public offices and employments which the offender may have held even if conferred by popular election.

2. The deprivation of the right to vote in any election for any popular office or to be elected to such office.

3. **The disqualification for the offices or public employments and for the exercise of any of the rights mentioned.**

x x x x

4. **The loss of all rights to retirement pay or other pension for any office formerly held.**

Although the petitioner submitted photocopies of supposed clearances from the National Bureau of Investigation (NBI) indicating that he had no criminal record, his silence about the absolute pardon granted on May 27, 1987 until he alleged it *for the first time* in his motion for reconsideration in the PAGC did not also substantiate his plea of good faith. The submitted documents were mere photocopies, and as such were bereft of faith and credit. Indeed, he did not suitably explain his silence about the absolute pardon considering that he must plead and prove such pardon due to its being the private act of the Chief Executive.²³ The failure to establish the absolute pardon in the administrative proceedings held before the PAGC and the OP rendered the absolute pardon inadmissible for purposes of his administrative case, and effectively removed any legal obligation on the part of the CA to consider the effects of the purported absolute pardon in his case. Worthy to stress, too, is that this Court, not being a trier of facts,

²³ *Barroquinto v. Fernandez*, 82 Phil 642, 646 (1949).

cannot but disallow the consideration of such factual issue of whether or not he had truly been granted the absolute pardon, for it can take cognizance only of questions of law.

Thirdly, the petitioner claims on the issue of usurpation of authority that there was absolutely no evidence showing that he had acted without any authority from the Board. To bolster this claim, he relies on the fact that the Board had not declared his acts as unauthorized; and on the fact that none of the members of the Board had brought any complaint against him in respect thereof. He posits that his approval of the water permit applications had been authorized by NWRB Resolution No. 02-0499-A.

The petitioner's claim is unwarranted. The PAGC and the OP both found that he had gone beyond his express authority in signing and approving the 324 applications for water permits on various dates, including September 5, 16, and 23, October 17, November 12, December 3, 12, and 18, 2002, and January 2 and 15, 2003.²⁴ They noted that, indeed, the applications he had approved had exceeded the 0.05 LPS limit imposed in Resolution No. 02-0499-A. His excess of the authority granted to him by the Board amounted to misconduct.

Fourthly, the petitioner argues that dismissal was a penalty too harsh where a lesser one would suffice. He prays that the Court should consider his 13 years of public service, and the fact that no graft charges had been filed against him. He reminds that he had been set to retire as early as in April 2004.

We do not find any reversible error in the CA's affirmance of the OP's imposition on him of the penalty of dismissal. Under the previous and current rules on administrative cases, dishonesty and grave misconduct have been classified as *grave offenses* punishable by dismissal.²⁵ These offenses reveal defects in the respondent official's character, affecting his right to continue in office, and are punishable by dismissal even if committed for the first time.²⁶

Lastly, the petitioner has repeatedly insinuated that the administrative charge brought against him resulted out of the machinations of various powerful political personalities. This insinuation, even if accurate or true, has no bearing in the consideration and resolution of the legal question now squarely before us, which is whether or not the administrative charge against him was disposed of properly.

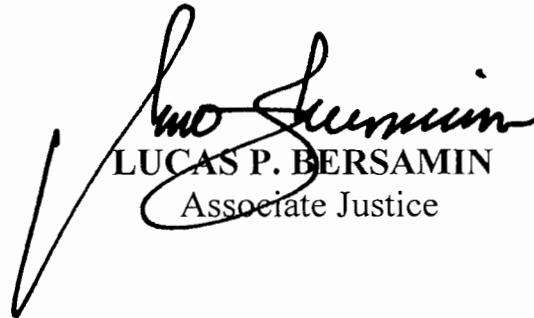
²⁴ *Rollo*, p. 116.

²⁵ CSC Resolution No. 99-1936, Rule IV, Section 52, and CSC Resolution No. 1101502, Rule 10, Section 46.


²⁶ *Remolona v. Civil Service Commission*, G.R. No. 137473, August 2, 2001, 362 SCRA 304, 313.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; **AFFIRMS** the decision and resolution promulgated by the Court of Appeals in CA-G.R. SP No. 80689 on October 30, 2006 and April 25, 2007, respectively; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.

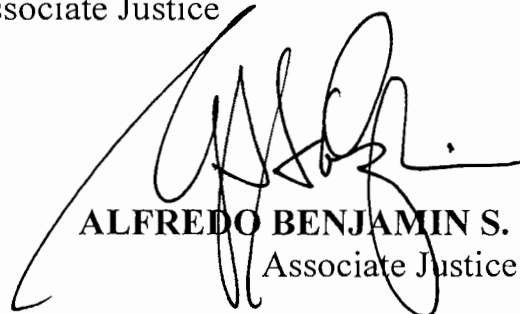

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO Associate Justice


ESTELA M. PERLAS-BERNABE Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice