

## FIRST DIVISION

[ G.R. No. 149356, March 14, 2008 ]

**REPUBLIC OF THE PHILIPPINES represented by the Department of Trade and Industry, Petitioner, vs. WINSTON T. SINGUN, Respondent.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review on certiorari<sup>[1]</sup> of the 1 August 2001 Decision<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 64953. The 1 August 2001 Decision affirmed Civil Service Commission (CSC) Resolution Nos. 002651<sup>[3]</sup> and 010843<sup>[4]</sup> dated 27 November 2000 and 27 April 2001, respectively. CSC Resolution No. 002651 held that respondent Winston T. Singun's (respondent) resignation was inoperative and inefficacious and ordered the payment of his salaries and other benefits from 1 January 2000. CSC Resolution No. 010843 denied petitioner's motion for reconsideration.

#### The Facts

Petitioner Republic of the Philippines (petitioner) is represented by the Department of Trade and Industry, Regional Office No. 2 (DTI-RO2). Respondent was the former Chief Trade and Industry Development Specialist of DTI-RO2, Cagayan Province.

In a letter<sup>[5]</sup> dated 20 October 1999, respondent wrote Regional Director Jose Hipolito (Director Hipolito) signifying his intention to apply for an 8½ month leave of absence starting 16 November 1999 until 31 July 2000. Respondent also signified his intention to retire from the service on 1 August 2000. On 4 November 1999, respondent filed his application for leave of absence and early retirement.<sup>[6]</sup> Director Hipolito denied the request.

On 8 November 1999, respondent again filed an application for leave of absence and resignation.<sup>[7]</sup> In a memorandum dated 9 November 1999, Director Hipolito endorsed the application to Assistant Secretary Zenaida C. Maglaya (Assistant Secretary Maglaya) for comment.<sup>[8]</sup>

On 12 November 1999, without waiting for Assistant Secretary Maglaya's comment, respondent again filed an application for leave of absence but for a shorter period from 16 November 1999 until 14 January 2000.<sup>[9]</sup> Respondent also signified his intention to resign "effective at the close of office hours on 14 January 2000." According to Director Hipolito, he immediately approved respondent's application for leave of absence and resignation and he reiterated said approval in a

memorandum<sup>[10]</sup> dated the same day. In a letter<sup>[11]</sup> dated 23 November 1999, Director Hipolito also notified Regional Director Jose T. Soria (Atty. Soria) of the Civil Service Commission, Regional Office No. 2 (CSC-RO2) of his acceptance of respondent's resignation.

Then on 14 January 2000, at about 4:00 p.m., the DTI-RO2 received, through facsimile, Memorandum Order No. 20<sup>[12]</sup> issued by Undersecretary Ernesto M. Ordoñez (Undersecretary Ordoñez) detailing respondent to the Office of the Undersecretary for Regional Operations effective 17 January 2000.

On 17 January 2000, the DTI-RO2 received respondent's 14 January 2000 letter<sup>[13]</sup> informing Director Hipolito that he was reconsidering his earlier letter of resignation and that he decided to wait until he could qualify for early retirement.

On 25 January 2000, Director Hipolito wrote Atty. Soria requesting an opinion on whether respondent was considered resigned as of 12 November 1999 and, hence, Undersecretary Ordoñez's detail order was without effect.

In CSC-RO2 Opinion No. LO-000202<sup>[14]</sup> dated 2 February 2000, Atty. Soria ruled that respondent was considered resigned effective 14 January 2000. CSC-RO2 opined that respondent effectively resigned on that date because (1) of respondent's voluntary written notice informing Director Hipolito that he was relinquishing his position and the effectivity date of said resignation and (2) Director Hipolito's acceptance of respondent's resignation in writing which indicated the date of effectivity of the resignation. CSC-RO2 also said that respondent's letter withdrawing his resignation did not automatically restore him to his position because Director Hipolito should first approve the withdrawal before it becomes effective.

In a letter<sup>[15]</sup> dated 11 February 2000, Director Hipolito informed Undersecretary Ordoñez that respondent had resigned effective 14 January 2000 and, thus, the detail order was without effect. Director Hipolito added that during respondent's leave of absence, respondent accepted employment with the Philippine Rural Banking Corporation (PRBC).

In a letter<sup>[16]</sup> dated 23 February 2000, respondent informed Undersecretary Ordoñez that his application for resignation was made under duress because it was imposed by Director Hipolito as a condition for the approval of his application for leave of absence. Respondent explained that he did not intend to resign on 14 January 2000 as his original intention was to resign on 1 August 2000 after completing 15 years of service in the government. Respondent also stated that his resignation was ineffective because he was not notified of its acceptance for he did not receive a copy of his approved resignation letter and Director Hipolito's memorandum accepting his application for resignation. Respondent added that even assuming he was duly notified of its acceptance, his resignation was still made under duress and, therefore, no amount of acceptance would make it valid.

On 2 March 2000, Undersecretary Ordoñez required Director Hipolito to comment on respondent's 23 February 2000 letter. Undersecretary Ordoñez asked Director Hipolito to submit documentary evidence to show that respondent received a copy of Director Hipolito's formal acceptance in writing of respondent's letter of resignation and that respondent was employed by PRBC during his leave of absence.

On 28 March 2000, respondent demanded from Director Hipolito the payment of his salaries and other benefits from 1 December 1999 to 31 March 2000.

On 5 April 2000, Undersecretary Ordoñez ordered Director Hipolito to advise him as to respondent's request for the payment of his unpaid salaries. Undersecretary Ordoñez also asked Director Hipolito to support his claim that respondent was considered resigned effective 14 January 2000 with a ruling from the CSC.

In a letter<sup>[17]</sup> dated 18 April 2000, Atty. Soria asked Director Hipolito to comment on respondent's 14 April 2000 letter<sup>[18]</sup> requesting for the reconsideration of CSC-RO2 Opinion No. LO-000202. In his comment,<sup>[19]</sup> Director Hipolito denied that he "forced, intimidated, threatened, and unduly pressured" respondent to resign. Director Hipolito also insisted that respondent received a copy of the 12 November 1999 memorandum regarding the acceptance of his resignation.

On 5 June 2000, the CSC-RO2 rendered Decision No. A-000601<sup>[20]</sup> denying respondent's motion for reconsideration. CSC-RO2 ruled that respondent was considered resigned as of 14 January 2000 because the detail order made no mention that its issuance meant that the acceptance of the resignation was revoked. CSC-RO2 added that since Undersecretary Ordoñez was not the appointing authority, he had no power to accept respondent's withdrawal of his resignation.

Respondent appealed to the CSC.

### **The Ruling of the Civil Service Commission**

On 27 November 2000, the CSC rendered Resolution No. 002651 declaring respondent's resignation inoperative and inefficacious. The CSC also ordered the payment of respondent's salaries and other benefits from 1 January 2000. The CSC ruled:

There is no dispute that Singun tendered his resignation to Regional Director Hipolito to take effect on January 14, 2000. But it is likewise undisputed that on the very day that his cessation from office is to take effect, DTI Undersecretary Ordoñez ordered his detail to his Office. This act of Undersecretary Ordoñez, who is the immediate supervisor of Regional Director Hipolito, is a tacit, if not express, repudiation and revocation of the ostensible acceptance by the latter of the supposed resignation of Singun. This, in effect, can be construed as if no acceptance was ever made on the tender of resignation of Singun.

Finally, even on the assumption that Singun's tender of resignation was indeed accepted, such acceptance is inoperative and inefficacious. This is so simply because there is no showing from the records that Singun was duly informed of said acceptance. In fact, there is no mention whatsoever that Singun was informed of the acceptance of his resignation. This being the case, it cannot be concluded that Singun had, either impliedly or expressly, surrendered, renounced, or relinquished his office. In explaining this precept, the Commission in CSC Resolution No. 00-2394 dated October 18, 2000, held:

'It is explicit that resignation, as a mode of terminating the employee's official relations, is pre-conditioned on the (i) written notice of the concerned employee to sever his employment tie coupled with an act of relinquishing the office; and, (ii) acceptance by the appointing authority for which the employee shall have been properly notified...'[21]

On 15 December 2000, petitioner filed a motion for reconsideration. Two supplemental motions for reconsideration were subsequently filed on 12 January 2001[22] and 11 April 2001.[23] In Resolution No. 010843,[24] the CSC denied petitioner's motion for reconsideration.

Petitioner appealed to the Court of Appeals.[25]

### **The Ruling of the Court of Appeals**

On 1 August 2001, the Court of Appeals denied petitioner's appeal and affirmed CSC Resolution Nos. 002651 and 010843. The Court of Appeals declared that there was substantial evidence to support the CSC's finding that respondent's resignation was inoperative and inefficacious. The Court of Appeals stated that findings of fact of an administrative agency must be respected, as long as such findings are supported by substantial evidence, even if such evidence might not be overwhelming or preponderant. The Court of Appeals said "the fact of resignation cannot be presumed by the petitioner's simple expedient of relying on memoranda or letters merely showing the purported approval of resignation which bore his signature, because to constitute a complete and operative act of resignation, the officer or employee must show a clear intention to relinquish or surrender his position." [26]

The Court of Appeals also ruled that respondent's alleged act of accepting employment with PRBC did not amount to abandonment of office. The Court of Appeals held that abandonment is inconsistent with respondent's (1) motion for reconsideration of CSC-RO2's Opinion No. LO-000202, (2) appeal questioning CSC-RO2's Decision No. A-000601, and (3) bringing the matter to the National Office of the CSC for resolution.

The Court of Appeals also declared that petitioner was not denied due process because the essence of due process in administrative proceedings is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. In this case, petitioner was able to file a motion for reconsideration and two supplemental motions for reconsideration.

Hence, this petition for review with prayer for a temporary restraining order.

On 8 October 2001, the Court issued a temporary restraining order enjoining the CSC from enforcing the 1 August 2001 Decision of the Court of Appeals and respondent from assuming office at the DTI-RO2, Cagayan Province.[27]

### **The Issues**

Petitioner raises the following issues: