

## SECOND DIVISION

[ G.R. No. 228236, January 27, 2021 ]

### HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, PETITIONER, VS. DAISY B. PANGA-VEGA, RESPONDENT.

**LOPEZ, M., J.:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>[2]</sup> dated April 29, 2016 and Resolution<sup>[3]</sup> dated November 8, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 128947.

#### ANTECEDENTS

On February 2, 2011, Atty. Daisy B. Panga-Vega (Panga-Vega), then Secretary of the House of Representatives Electoral Tribunal (HRET), requested authority to avail of the 15 days of special leave benefit under Republic Act (RA) No. 9710, otherwise known as the Magna Carta of Women," on February 7-11, 14-18, and 21-25, 2011, but not to exceed two months, to undergo hysterectomy.<sup>[4]</sup>

On February 3, 2011, the HRET approved Panga-Vega's request for special leave for a period not exceeding two months starting February 7, 2011.<sup>[5]</sup> On February 7, 2011, she underwent total hysterectomy.<sup>[6]</sup>

On March 7, 2011, after a month of availing of the special leave, Panga Vega informed the HRET Chairperson that she was resuming her duties and functions.<sup>[7]</sup> She also presented a medical certificate<sup>[8]</sup> dated March 5, 2011, stating that there was "no contraindication to resume light to moderate activities." On March 9, 2011, she explained that the earlier medical certificate did not necessarily indicate her fitness to report for work.<sup>[9]</sup> Thus, she presented another medical certificate<sup>[10]</sup> of even date stating that she was already "fit to work" after her physical examination on March 6, 2011.

On March 10, 2011, the HRET directed Panga-Vega to consume her 2-month special leave given her need for prolonged rest following her hysterectomy, and in view of a pending investigation on her alleged alteration or tampering one minutes of the meeting that could subject her to more stress.<sup>[11]</sup> On March 14, 2011, she sought reconsideration of this HRET Resolution.<sup>[12]</sup> On March 24, 2011, the HRET denied reconsideration reiterating her need to rest, and also, pointing out the confusion and doubts regarding her true medical condition as caused by her medical certificates.<sup>[13]</sup> On April 13, 2011, Panga-Vega filed an appeal with the Civil Service Commission (CSC) assailing the March 10, 2011 and March 24, 2011 HRET Resolutions.<sup>[14]</sup>

On October 9, 2012, the CSC issued a Decision<sup>[15]</sup> granting the appeal of Panga-Vega. It ruled that she only needed to present a medical certificate attesting her

physical fitness to return to work and need not exhaust the full leave she applied for under RA No. 9710. It was further held that applying the rules on maternity leave, she is entitled to both the commuted money value of the unexpired portion of the special leave and her salary for actual services rendered effective the day she reported back for work. On November 23, 2012, the HRET sought reconsideration,<sup>[16]</sup> but the CSC denied this in its Resolution<sup>[17]</sup> dated February 12, 2013.

On March 19, 2013, the HRET filed a Petition for Review<sup>[18]</sup> assailing the foregoing Decision and Resolution of the CSC with the CA. On April 29, 2016, the CA dismissed the petition.<sup>[19]</sup> Adopting the CSC's findings, it ruled Panga-Vega may opt not to consume the full leave she applied for upon her submission of the medical certificate. It also held that nothing in RA No. 9710 precludes the suppletory application of the rules on maternity leave to the special leave benefit under RA No. 9710. The HRET sought reconsideration, but the CA denied this in its Resolution<sup>[20]</sup> dated November 8, 2016. Hence, this petition.<sup>[21]</sup>

The HRET argues that the CSC should not have applied suppletorily the rules on maternity leave to the special leave benefit under RA No. 9710. It also contends that Panga-Vega did not sufficiently comply with the "CSC Guidelines on the Availment of the Special Leave Benefits for Women Under RA No. 9710"<sup>[22]</sup> (CSC Guidelines), warranting her return to work.

Panga-Vega counters that the Secretary or Deputy Secretary of the HRET was not authorized to file the instant petition. She further claims that the suppletory application of the rules on maternity leave to the special leave benefit is more in accord with the thrust and intent of RA No. 9710. As to her compliance with the CSC Guidelines, she maintains that her medical certificate and her attending physician's subsequent clarifications sufficiently showed her fitness to return to work.<sup>[23]</sup>

### **THE COURT'S RULING**

Before delving into the merits, the issue raised by Panga-Vega regarding the authority of the HRET to initiate the case before the Court must first be addressed. She argues that as an agency or instrumentality of the Government, the statutory counsel of HRET is the Office of the Solicitor General (OSG). She opined that the instant petition should have been filed by the OSG, not by the Secretary or Deputy Secretary of the HRET.

The HRET was created by virtue of Section (Sec.) 17, Article VI of the 1987 Philippine Constitution, which provides that the House of Representatives shall have its own Electoral Tribunal that shall be the sole judge of all contests relating to the election, returns, and qualifications of its Members. As a recognized instrumentality of the Government, the Court, in a catena of cases, exercised over it its expanded judicial power to include the determination of "whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."<sup>[24]</sup>

Meanwhile, the OSG was constituted as the law office of the Government and shall discharge duties requiring the services of a lawyer as such. It shall represent the Government of the Philippines, its agencies, instrumentalities, and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. It is tasked to represent the Government and its officers in the Court, the

CA, and all other courts or tribunals in all civil actions and special proceedings in which the Government, or any officer thereof, in his official capacity is a party, among others.<sup>[25]</sup>

The OSG, however, may be excused from representing the Government, its agencies, and instrumentalities when there is an express authorization by the OSG, naming therein the legal officers who are being deputized in cases involving their respective offices, subject to its supervision and control, or when the OSG takes a position different from that of the agency it is duty bound to represent.<sup>[26]</sup>

A perusal of the records shows that there was no express authorization by the OSG naming the Secretary and Deputy Secretary of the HRET as its deputized legal officers in filing this petition. There was also no proof, let alone an allegation, that the OSG took a position different from the HRET in this case. Instead of providing a plausible justification why the OSG did not represent it, the HRET simply reasoned that the instant petition should be given course in the interest of a speedy determination of issues. It even posited that the defect in its filing of the instant petition may be cured upon a subsequent filing by the OSG of a manifestation and motion ratifying and adopting it, but there had been no such manifestation and motion in this case. These facts necessarily evince that HRET lacked the legal capacity to initiate this case, and the HRET gave no compelling reason for the Court to disregard this finding.

Even on the merits, however, the petition must still fail.

Section 18 of RA No. 9710 entitles a woman, who has rendered a continuous aggregate employment service of at least six months for the last 12 months, a special leave of two months with full pay based on her gross monthly compensation following surgery caused by gynecological disorders. In relation to this provision, the case involving Panga-Vega gives rise to the issue of whether the rules on maternity leave under Sec. 14, Rule XVI of the Omnibus Rules Implementing Book V of Executive Order No. 292, which provides that the commuted money value of the unexpired portion of the special leave need not be refunded, and that when the employee returns to work before the expiration of her special leave, she may receive both the benefits granted under the maternity leave law and the salary for actual services rendered effective the day she reports for work, may have a suppletory application.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), acknowledges the need to guarantee the basic human rights and fundamental freedoms of women through the adoption in the political, social, economic, and cultural fields, of appropriate measures, including legislation, to ensure their full development and advancement.<sup>[27]</sup> Consistent thereto, no less than the fundamental law of the land imposes on the State the duty to protect working women by providing safe and healthful working conditions, as well as facilities and opportunities to enhance their welfare, and enable them to realize their full potential in the service of the nation.<sup>[28]</sup>

In fulfillment of the foregoing obligation under the CEDAW, and the 1987 Philippine Constitution to advance the rights of women, RA No. 9710 was enacted. This law acknowledges the economic, political, and sociocultural realities affecting their work conditions and affirms their role in nation-building.<sup>[29]</sup> It guarantees the availability