

THIRD DIVISION

[G.R. No. 207522, April 18, 2021]

BANGKO SENTRAL NG PILIPINAS, PETITIONER, VS. NELSON C. BOOL, RESPONDENT. D E C I S I O N

Hernando, J.:

This Petition for Review on *Certiorari*^[1] assails the January 21, 2013 Decision^[2] and May 20, 2013 Resolution^[3] of the Court of Appeals (CA) in CA G.R. SP No. 123467, which affirmed with modification the November 15, 2011 Decision^[4] and the February 1, 2012 Resolution^[5] of the Civil Service Commission (CSC) finding respondent Nelson C. Bool (Bool) guilty of gross neglect of duty and suspending him from office without pay for one year.

The Antecedents:

On August 11, 2005, the Bangko Sentral ng Pilipinas (BSP) awarded the contract for the supply and delivery of finished banknotes to Francois Charles Oberthur Fiduciare (FCOF), a French firm engaged in private security printing. The contract was for the production and delivery of 160 million pieces of 100-Piso notes equivalent to US\$5,264,000.00 and 89 million pieces of 1,000-Piso notes equivalent to US\$2,996,000.00.^[6]

On August 17, 2005, FCOF extended an invitation to BSP to send its representative to witness the production of the *litho* and *intaglio* printed sheets and approve the same. The *litho* plate is used in the process of printing the background features of the banknote while the *intaglio* plate is used in the process of printing the embossed features of the banknote, such as the Philippine President's name.^[7]

On September 15, 2005, the BSP authorized respondent Bool to travel to Rennes, France as BSP's representative. Bool was tasked to ensure that the quality of the printed sheets conformed to the BSP's prescribed specifications for the 100-Piso and 1000-Piso denominations before the start of the actual production.^[8] Unfortunately, on November 9, 2005, it was discovered that the surname of former President Gloria Macapagal-Arroyo in the 100-Piso outsourced notes was misspelled as "Arroyo" instead of "Arroyo."^[9]

Perforce, the BSP formally charged Bool with gross neglect of duty. In the BSP Investigation Report^[10] dated December 10, 2009, petitioner was adjudged guilty of gross neglect of duty and was meted out the penalty of dismissal from service, with forfeiture of retirement benefits, cancellation of civil service eligibility, and perpetual disqualification from reemployment in the government service.^[11]

Bool filed a Motion for Reconsideration, which was denied by the BSP in its October 4, 2010 Resolution.^[12] Thus, he elevated the case to the CSC.

Ruling of the Civil Service Commission:

In a Decision^[13] dated November 15, 2011, the CSC affirmed the BSP's findings and also imposed the additional accessory penalty of "bar from taking the Civil Service Examination," to wit:

WHEREFORE, the appeal of Nelson C. Bool, Manager I, Simultan Division Banknote Printing Group, Banknotes and Securities Printing Department (BPSD), Bangko Sentral ng Pilipinas (BSP), is hereby DISMISSED. Accordingly, the Decision dated December 10, 2009 of the Monetary Board, finding Bool guilty of Gross Neglect of Duty and imposing upon him the penalty of dismissal from the service with the accessory penalties of forfeiture of retirement benefits, cancellation of Civil Service eligibility and perpetual disqualification from reemployment in the government service, and the Resolution dated October 4, 2010, denying his motion for reconsideration, are AFFIRMED. The accessory penalty of bar from taking Civil Service examination is likewise imposed.^[14]

In a Resolution^[15] dated February 1, 2012, the CSC denied Bool's Motion for Reconsideration.

Thus, Bool filed a Petition for Review with the CA.

Ruling of the Court of Appeals:

In its Decision^[16] dated January 21, 2013, the appellate court partly granted Bool's Petition and modified the penalty recommended by the CSC from dismissal from service to suspension from office for one year. Pertinent portions of the Decision read as follows:

Following the ruling of the Supreme Court in the case of *Hao v. Andres*, We find the penalty imposed by the CSC on petitioner to be too harsh. In view of the presence of several mitigating circumstances available to petitioner in this case, We hereby lower the penalty imposed on petitioner to one (1) year suspension, without pay.

WHEREFORE, the foregoing considered, the petition is PARTLY GRANTED. The Decision dated 15 November 2011 of the Civil Service Commission finding petitioner guilty of Gross Neglect of Duty and its Resolution dated 1 February 2012 Order denying his Motion for Reconsideration are hereby AFFIRMED subject to the MODIFICATION that petitioner is merely SUSPENDED from office without pay for ONE (1) YEAR.

SO ORDERED.^[17] (Citation omitted)

In a Resolution^[18] dated May 20, 2013, the appellate court denied BSP's Motion for Reconsideration for being bereft of merit. Thus, this Petition for Review on *Certiorari*.

Issue

Whether or not the appellate court erred when it downgraded respondent's penalty to suspension for one year thereby disregarding the applicable laws and jurisprudence penalizing gross neglect of duty with dismissal from the service.

Our Ruling

We grant the Petition.

Gross neglect of duty is a grave offense under Section 52 (A) (2), Rule IV^[19] of the Uniform Rules on Administrative Cases in the Civil Service (Uniform Rules). The Uniform Rules prescribe the penalty of dismissal from service for gross neglect of duty even if committed for the first time.

Section 46 (A)(2), Rule 10^[20] of the Revised Rules on Administrative Cases in the Civil Service (Revised Rules) similarly classified gross neglect of duty as a grave offense. However, Section 53, Rule IV^[21] of the Uniform Rules recognized the application of mitigating, aggravating, or alternative circumstances in the imposition of administrative penalties. Notably, both provisions do not expressly state that mitigating, aggravating, or alternative circumstances should not be considered when the prescribed penalty for the administrative offense is an indivisible penalty, such as dismissal from the service.

Duque III v. Veloso (Duque)^[22] sheds light on this issue:

It is true that Section 53, Rule IV of the Uniform Rules provides the application of mitigating, aggravating or alternative circumstances in the imposition of administrative penalties. Section 53, Rule IV **applies only when clear proof is shown, using the specific standards set by law and jurisprudence, that the facts in a given case justify the mitigation** of the prescribed penalty.^[23] (Emphasis supplied)

Jurisprudence is clear that Section 53 also applies to indivisible penalties, such as dismissal, as long as there is clear proof, under specific legal and jurisprudential standards, that the facts of the case justify the mitigated, aggravated, or alternated penalty.

Duque further instructs:

In appreciating the presence of mitigating, aggravating or alternative circumstances to a given case, two constitutional principles come into play which the Court is tasked to balance. The first is public accountability which requires the Court to consider the improvement of public service, and the preservation of the public's faith and confidence in the government by ensuring that only individuals who possess good moral character, integrity and competence are employed in the government service. The second relates to social justice which gives the Court discretionary leeway to lessen the harsh effects of the wrongdoing committed by an offender for equitable and humanitarian consideration.^[24] (Citation omitted)

Based on the foregoing, We affirm the factual findings of both the CSC and the CA that Bool was indeed guilty of gross neglect of duty. However, We deviate from the conclusion of the appellate court that Bool's length of service, good faith, and the fact that it was his first offense served to mitigate his liability.

Length of service is an alternative circumstance that can either be considered as mitigating or aggravating depending on the factual milieu of each case.^[25] It is "not

a magic word that, once invoked, will automatically be considered as a mitigating circumstance in favor of the party invoking it."^[26] The Court has applied the alternative circumstance of length of service differently through the years:

In *University of the Philippines v. Civil Service Commission*,^[27] the Court did not consider therein private respondent's length of service as a mitigating circumstance since it was her length of service, among others, that earned her the position she was in and through which she illicitly allowed her relatives to enjoy unmerited privileges, like an unwarranted diploma. In short, the length of service helped facilitate private respondent's commission of the offense.

Length of service cannot also be considered as a mitigating circumstance when the offense committed is found to be serious. In *Yuson v. Noel*,^[28] respondent judge was found guilty of abusing his office when he misappropriated the amount deposited with him in settlement of the judgment debt. The Court held that the mere length of his service for 10 years could not mitigate the gravity of his offense or the penalty he deserves.

The above-cited cases, as applied to the case at bar, show that length of service cannot be considered as a mitigating circumstance when the length of respondent's service itself helped facilitate the commission of the offense, which is found to be grave or serious.

In this case, the Court agrees with the BSP that it was precisely because of Bool's length of service and experience that he was chosen as BSP's representative to France. It was in consideration of his extensive experience, special skills, and relevant expertise that he acquired by reason of his long years of service with the BSP that Bool was chosen for the highly technical work abroad.^[29] The CSC correctly held that the fact that Bool had been in the service for 33 years should have made him "more meticulous and prudent in discharging his responsibility."^[30]

Moreover, the offense committed is so gross, grave, and serious in character as to endanger or threaten the public welfare. The CSC is correct in holding that the repercussions and the impact resulting from Bool's negligence in not detecting the error in former President Arroyo's surname are so great. The CSC held:

It is undeniable that with the [Bool]'s failure to detect the error in the surname of former President Arroyo in the 100-Piso bills printed by FCOF, the money spent for the production of the 100-Piso notes containing the misspelled surname of former President Arroyo was put to waste. Worse, the BSP, as well as former President Arroyo, became subjects of public ridicule and embarrassment. Such negligence of [Bool] could not be compared to the ordinary negligence which other employees may commit as to hold him liable only for Simple Neglect of Duty. As aptly explained by BSP, "[Bool] is not an ordinary person doing an ordinary task in an ordinary place and committing an ordinary mistake with ordinary effects. On the contrary, [Bool] is the official representative of the BSP; he had gained a certain level of expertise in the printing of banknotes; he was chosen and accepted to be sent to the printer site in France to perform the specialized function of assuring the quality of the proof not of the 100-piso of the Republic of the Philippines."^[31]