

EN BANC

[G.R. No. 225301, June 02, 2020]

**THE DEPARTMENT OF TRADE AND INDUSTRY, REPRESENTED BY
ITS SECRETARY, THE UNDERSECRETARY OF THE CONSUMER
PROTECTION GROUP, MEMBERS OF THE SPECIAL
INVESTIGATION COMMITTEE, AND THE DIRECTOR OF LEGAL
SERVICE, PETITIONERS, VS. DANILO B. ENRIQUEZ,
RESPONDENT.**

DECISION

REYES, J. JR., J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, which seeks to annul the Decision^[2] dated June 27, 2016 of the Regional Trial Court (RTC) of Quezon City, Branch 77, in Civil Case No.R-QZN-16-05101.

The Facts

Prompted by a news article^[3] about corrupt practices in the issuance of importation clearances by an unnamed high-ranking officer of the Department of Trade and Industry (DTI), then DTI Secretary Adrian Cristobal, Jr. (Sec. Cristobal) instructed Consumer Protection Group Undersecretary Victorino Mario Dimagiba (Usec. Dimagiba) to conduct an investigation thereon.^[4]

After acting upon said directive, Usec. Dimagiba issued a Memorandum^[5] dated April 14, 2016, reporting his initial findings to Sec. Cristobal, finding unauthorized issuances of respondent Danilo B. Enriquez (Enriquez), then Fair Trade and Enforcement Bureau (FTEB) Director, with regard to certain importations. Pursuant to these findings, Usec. Dimagiba opined that there is sufficient basis to file administrative and/or criminal complaints against Enriquez, recommending, thus, that a full-blown investigation on all activities in Enriquez's office be conducted and that the latter be preventively suspended pending investigation.^[6]

Thus, Sec. Cristobal issued Department Order (D.O.) No. 16-34^[7] dated April 22, 2016, creating a Special Investigation Committee (SIC), mandated to conduct a full investigation on Enriquez. The D.O. also clothed the SIC the authority to issue a preventive suspension order, among others.

Learning about the SIC, Enriquez issued a Memorandum^[8] dated May 2, 2016 addressed to Usec. Dimagiba, formally requesting clarification on the "unverified" findings of the preliminary investigation conducted against him and also formally demanding for the immediate release of said findings and/or report, invoking due process, fair play, and the higher interest of justice.

On even date, Enriquez issued another Memorandum,^[9] addressed to Sec. Cristobal and the individual members of the SIC, questioning the regularity of the investigation conducted by Usec. Dimagiba, not only on the ground of want of authority, but also because the lack of opportunity to present countervailing evidence or counter-affidavit during said investigation.

On May 5, 2016, Enriquez issued another Memorandum,^[10] also addressed to the SIC individual members, objecting to the proceedings conducted by the latter on the ground that it is the Office of the Ombudsman which has the disciplinary authority over him.

On May 6^[11] and 12,^[12] 2016, Enriquez issued separate memoranda, reiterating his objections to the validity of D.O. No. 16-34 with regard to the authority of the SIC to conduct investigation upon him and order preventive suspension against him.

On May 12, 2016, the SIC issued a "Show Cause Memorandum,"^[13] directing Enriquez to explain in writing, within 48 hours from receipt, why no administrative charges should be filed against him with regard to Usec. Dimagiba's findings.

In response, Enriquez issued a Memorandum^[14] dated May 18, 2016, maintaining his objections to the SIC's disciplinary authority over him, being a presidential appointee, holding a career and high-level position with Salary Grade "28."

On May 19, 2016, the SIC issued a Memorandum^[15] stating that Enriquez did not give a responsive answer to the "Show Cause Memorandum" and as such, failed to present an explanation why no administrative case should be filed against him. Thus, the SIC found *prima facie* case against Enriquez and formally charged him with Gross Insubordination, Gross Misconduct/Gross Neglect of Duty, Grave Abuse of Authority, and Conduct Prejudicial to the Best Interest of the Service, stating therein the specific acts constituting the offenses, as well as the laws, rules and regulations alleged to be violated. Attached with said formal charge were pieces of documentary evidence substantiating the charges. Enriquez was also ordered to file an answer to the formal charge within 72 hours. The SIC further placed Enriquez on preventive suspension for a period of 90 days effective immediately upon receipt of said Memorandum.

On May 23, 2016, Enriquez filed a Protest and Answer *Ex Abudante Cautelam*,^[16] specifically denying the charges against him and maintaining his objection to the SIC's authority to conduct investigations and order his preventive suspension.

Enriquez also filed a Petition for *Certiorari*, Prohibition, and Mandamus with Very Extreme Urgent Prayer for the Issuance of a *Status Quo Ante* Order and Temporary Restraining Order (TRO) and a Writ of Preliminary Injunction^[17] before the RTC against Sec. Cristobal, Usec. Dimagiba, and the members of the SIC (collectively, petitioners).

In the main, Enriquez's petition was grounded upon the lack of disciplinary jurisdiction of Sec. Cristobal, and consequently the SIC as well, over him, being a presidential appointee occupying a high-ranking position with Salary Grade "28." Enriquez averred that it is the Presidential Anti-Graft Commission (PAGC) which has

the authority and jurisdiction to investigate, hear, and decide administrative cases against a presidential appointee occupying a director position with Salary Grade "28." Enriquez invoked Executive Order (E.O.) No. 12, as amended by E.O. No. 531 and E.O. Nos. 531-A and 531-B.

Enriquez also argued that the investigation conducted by Usec. Dimagiba, as well as the resulting creation of the SIC and its order of preventive suspension, are acts of oppression and clear abuse of authority, which violated his right to due process.

Hence, Enriquez prayed that D.O. No. 16-34 and all the Memoranda issued by Usec. Dimagiba and the SIC relative to the investigation/s against him, be nullified; that petitioners be ordered to restrain from further continuing with the administrative disciplinary proceedings against him; and that a memorandum be issued stating that petitioners do not have jurisdiction over administrative cases involving presidential appointees and the proper remedy or referral of the case to the appropriate authority.^[18]

Petitioners, through the Office of the Solicitor General (OSG), countered that the RTC has no jurisdiction over the petition. Petitioners argued that the petition involves the DTI Secretary's exercise of its *quasi-judicial* function in an administrative disciplinary proceeding. Hence, according to the petitioners, a review thereof is within the jurisdiction of the Court of Appeals (CA) pursuant to Section 4, Rule 65 of the Rules of Court. Petitioners further argued that they have disciplinary jurisdiction over Enriquez, which include the authority to investigate and designate a committee to conduct such investigation, invoking Section 7(5), as well as Section 47(2) and (3), Chapter 2, Book IV and Section 51, Chapter 6, Book V of E.O. No. 292 or the Administrative Code of 1987. Petitioners further averred that due process was observed in the exercise of their disciplinary authority over Enriquez.^[19]

In its June 27, 2016 Decision, the RTC ruled in favor of Enriquez as follows:

WHEREFORE:

1. The instant petition is granted in part.
2. The *Formal Charge with Preventive Suspension dated May 19, 2016* is nullified and set aside.
3. The Special Investigation Committee is prohibited from hearing and adjudicating the *Formal Charge with Preventive Suspension dated May 19, 2016*.
4. The [petitioners] are commanded to restore [Enriquez] to his post as Director of the Fair Trade Enforcement Bureau of the Department of Trade and Industry, *unless his term of office has already expired and he can no longer resume such post under the present Administration*.

SO ORDERED.^[20] (Italics in the original)

Meanwhile, the DTI, through its then newly-appointed Secretary, Ramon M. Lopez, issued D.O. No. 16-63 dated July 4, 2016, which designated Assistant Director Ferdinand L. Manfoste as Officer-In-Charge of the FTEB in concurrent capacity,

effectively implying the expiration of Enriquez's term of office.

This Petition was then filed. Petitioners argue, in the main, that the DTI Secretary has disciplinary jurisdiction, which includes the authority to investigate and to designate a committee for such purpose, over subordinates though they may be presidential appointees such as Enriquez. Petitioners also question the RTC's jurisdiction to review the questioned act/s of the DTI Secretary and the SIC through a petition for *certiorari*, prohibition, and *mandamus*. Further, petitioners maintain that, contrary to Enriquez's claim, due process of law was observed in the process of investigation.

In his Comment/Opposition with Leave (Re: Petition for Review on *Certiorari*),^[21] Enriquez argues that the expiration of the term of his office has rendered the instant petition moot and academic.

In their Reply,^[22] petitioners, through the OSG, argue that Enriquez's separation from service does not render the instant petition moot and academic considering that administrative proceedings or investigations commenced against a public officer is not mooted upon the latter's subsequent separation from service as accessory penalties may still be imposed against erring public officials. Put differently, petitioners posit that Enriquez's separation from service only rendered moot the imposition of the penalty of dismissal, not the administrative proceedings or investigations against him. Hence, according to petitioners, the review of the instant Petition, which is rooted from the petition filed by Enriquez before the RTC, cannot be mooted by the latter's separation from service.

In their Memorandum,^[23] thus, petitioners raise the additional issue of whether or not the petition was rendered moot and academic due to Enriquez's separation from office. On the other hand, in his Memorandum, Enriquez argues that his right to due process of law was violated when he was investigated upon by a committee which has no authority to investigate, hear, and decide administrative cases over him, who is a presidential appointee with Salary Grade "28." Enriquez insists that it is the PAGC, not the DTI Secretary or the committee he designated, which has disciplinary authority over him pursuant to E.O. No. 12, as amended.

The Issues

- I. Does the Department Secretary have disciplinary jurisdiction over a presidential appointee?
- II. Did the RTC err in giving due course to the petition for *certiorari*, prohibition, and *mandamus*?
- III. Is the petition rendered moot and academic by the expiration of Enriquez's term of service?

The Court's Ruling

I.

The DTI Secretary has authority to investigate, as well as to designate a

committee or an officer for such purpose, a bureau director who is a presidential appointee such as Enriquez.

In ruling against the authority of the DTI Secretary to proceed in the administrative investigation of Enriquez, the RTC reasoned as follows:

From these legal facts, one can **necessarily infer** two things:

(i) The heads of departments, agencies and other instrumentalities **have no jurisdiction as well** over disciplinary cases against **presidential** appointees. This is **because** in effect their decisions **cannot be appealed** to the **proper** appellate body, which is the Civil Service Commission, and therefore, this scheme of disciplinary procedure leaves a void in the appeal process, which as a matter of statutory interpretation is **undesirable**; and

(ii) As a result, the heads of departments, agencies and other instrumentalities **must pursue a track other than** Sec. 7(5), Chap. 2, Bk IV, *Administrative Code of 1987* and Sec. 47(2) [and] (3), Chap. 6, Tit. I, Bk V, *Administrative Code of 1987* in *pursuing administrative complaints* against **presidential** appointees. The **appropriate track** is **provided for** by *Executive Order No. 13* and its *allied EOs*.

Further, Sec. 47(2) (3), Chap. 6, Tit. I, Bk V, *Administrative Code of 1987* **must be correlated to** and therefore **restricted by** Sec. 48 which refers to "Procedures in Administrative Cases Against **Non-Presidential** Appointees."

Very clearly, the **provisions cited by** [petitioners] against the administrative discipline of [Enriquez] appear to be **out-of-synch with** his service classification as a **presidential** appointee.

Indeed, **pursuant to his power of control**, the President may **supplant** and **directly assume** and **exercise** the **investigatory functions** of **departments** and agencies within the executive department.

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The President's power of control under the *Constitution* and the *Administrative Code* is confined only to the executive department.

[Petitioners] **also justified** their assumption of jurisdiction over [Enriquez] by asserting that they or at least the Honorable Secretary are the **alter egos** of the President. The **existence** of *this doctrine* of course is **undeniable**.

But since the **President has already spoken** through **Executive Order No. 13** as quoted above, [petitioners] **should have followed** the prescriptions thereof **instead of** doing things **apart from** and **independent of** EO 13.