

SECOND DIVISION

[G.R. No. 234630, June 10, 2019]

**OFFICE OF THE CITY MAYOR OF ANGELES CITY, PAMPANGA,
MAYOR EDGARDO D. PAMINTUAN, PETITIONER, VS. DR.
JOSEFINO E. VILLAROMAN, RESPONDENT.**

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated February 27, 2017 and the Resolution^[3] dated September 18, 2017 of the Court of Appeals (CA) in CA-GR. SP No. 1142879, which affirmed with modifications the Decision^[4] dated July 30, 2015 of the Civil Service Commission (CSC).

The Facts

Respondent Dr. Josefino E. Villaroman (repondent) held a permanent position as head of the Office of the City Veterinarian (OCV) of Angeles City, Pampanga.^[5] On December 2, 2014, petitioner Office of the City Mayor of Angeles City, headed by then Mayor Edgardo Pamintuan (petitioner), issued Memorandum No. 33/12,^[6] which reassigned respondent to his office and directed respondent to report to the Mayor's secretary for specific assignments.^[7] In a Letter^[8] dated December 15, 2014,^[9] respondent requested that he be restored to his original post but to no avail.^[10] Claiming that his reassignment amounted to constructive dismissal, respondent filed a petition^[11] to annul Memorandum No. 33/12 before the Civil Service Commission (CSC).^[12]

On March 9, 2015, petitioner issued Memorandum Order No. 17/03^[13] dropping respondent's name from the roll of employees on two grounds: (a) his absence without official leave (AWOL) at the Mayor's office for more than 30 days, specifically from December 4, 2014 to March 9, 2015; and (b) his failure to submit his performance evaluation reports.^[14] Moreover, respondent was not given productivity incentive benefits and his name was deleted from the March 1-15, 2015 payroll.^[15]

Aggrieved, respondent amended his appeal memorandum^[16] to include issues regarding the validity of the dropping of his name from the rolls, the non-payment of productivity bonus, and the deletion of his name from the payroll.^[17] He argued that the dropping from the rolls was unwarranted because he did not abandon his work, but was given an invalid reassignment. This notwithstanding, he still reported for work not, however at his original post at the OCV but at the Information and Communication Technology Department (ICTD),^[18] which he claimed was directly

connected to the OCV.^[19]

For its part, petitioner contended that instead of complying with Memorandum No. 33112, respondent refused to report to the Mayor's office and opted to log in and out of the ICTD,^[20] which was definitely not connected to the OCV.^[21] Petitioner further insisted that respondent was validly dropped from the rolls on the two grounds above-mentioned.

Petitioner added that respondent is not entitled to productivity bonus because the latter failed to submit the requisite evaluation reports.^[22]

The CSC's Ruling

In a Decision^[23] dated July 30, 2015, the CSC ruled that respondent's **reassignment was void** for two reasons: (i) it amounted to **constructive dismissal** because he was not given any definite duties and responsibilities; and (ii) the order failed to limit the period of reassignment to one (1) year as required under the CSC Revised Rules on Reassignment.^[24] Nevertheless, the CSC found that respondent was **validly dropped from the rolls** due to AWOL for more than thirty (30) working days and his name was validly deleted from the payroll for March 1-15, 2015, because he failed to present any evidence to prove that he rendered any service for the period from December 4, 2014 to March 9, 2015.^[25] Finally, the CSC found no basis for the payment of the 2014 productivity incentive benefits to respondent due to his failure to submit any performance evaluation report from July 2010 to December 2014.^[26]

Respondent moved for partial reconsideration,^[27] which was, however, denied in a Resolution^[28] dated October 9, 2015. Dissatisfied, he filed a petition for review^[29] with the Court of Appeals (CA).

The CA's Ruling

In a Decision^[30] dated February 27, 2017, the CA affirmed the CSC's decision with substantial modifications. It held that: (a) respondent's **reassignment was void**, and as a consequence thereof, he must be **reinstated**, without qualification, to his former position without loss of seniority rights and must be **paid back salaries** from the date he was dropped from the rolls on March 9, 2015 until his reinstatement; and (b) his claim for productivity incentive benefit shall be contingent upon the submission of his performance evaluation report and the ratings required under the civil service laws, rules, and regulations.^[31]

First, the CA ruled that respondent's reassignment amounted to constructive dismissal because he was not given any specific duties and responsibilities, which was proscribed under the CSC Revised Rules on Reassignment.^[32] *Second*, it held that respondent was invalidly dropped from the rolls because, citing *Yenko v. Gungon (Yenko)*,^[33] an employee could not have incurred absences in the office where he was assigned since the reassignment thereat was void.^[34] Besides, respondent's acts (*i.e.*, reporting for duty at the ICTD, which it found to be connected to the OCV, as well as repeatedly protesting his reassignment and

seeking reinstatement to his former workstation) were inconsistent with any intention to go on AWOL or abandon his post.^[35] Lastly, the CA held that since respondent continued reporting for work in the ICTD, there was no reason for him not to submit any performance evaluation form. Hence, he was allowed to submit the required form to avail of the productivity incentive benefit.^[36]

Petitioner moved for reconsideration^[37] but was denied in a Resolution^[38] dated September 18, 2017; hence, this petition.

The Issue Before the Court

The core issue before the Court is whether or not respondent was validly dropped from the rolls.

The Court's Ruling

At the outset, it bears noting that since petitioner no longer questioned the rulings of the CSC and the CA as regards the invalidity of respondent's reassignment to the Mayor's office pursuant to Memorandum No. 33/12 and the CA's ruling on respondent's entitlement to productivity incentive benefits, the Court will no longer pass upon such issues. What remains to be resolved is **whether or not respondent could properly be considered on AWOL** as to warrant the dropping of his name from the rolls.

The petition is granted.

Section 93 (a) (1),^[39] Rule 19 of the Revised Rules on the Administrative Cases in the Civil Service^[40] (RRACCS) provides that a public officer or employee shall be dropped from the rolls if he was on AWOL for at least thirty (30) days. AWOL means that the employee is leaving or abandoning his post without justifiable reason and without notifying his employer.^[41]

In the present case, a perusal of Memorandum 17/03 shows that respondent's dropping from the rolls was premised on his failure to report for duty at the Mayor's office pursuant to a reassignment order, which was subsequently declared void for amounting to constructive dismissal based on the CSC Rules on Reassignment. Jurisprudence is clear that a government employee could not have incurred absences in his reassigned station if his reassignment thereat was void,^[42] as in this case. Thus, the Court finds that respondent could not be validly dropped from the rolls merely for failing to report for work at the Mayor's office.

This notwithstanding, respondent should still be considered on AWOL, and therefore validly dropped from the rolls because he neither: (a) reported for work at his original post at the OCV; nor (b) filed leave applications during the period he was contesting his reassignment to the Office of the Mayor.

In several cases wherein government employees were given void reassignments to different workstations and thereafter dropped from the rolls for failing to report thereat, the Court did not consider those employees on AWOL because they either (a) reported to their original workstations while contesting their reassignment