

FIRST DIVISION

[G.R. No. 197571, April 03, 2017]

CIVIL SERVICE COMMISSION, PETITIONER, VS. CRISOSTOMO M. PLOPINIO, RESPONDENT.

DECISION

LEONARDO-DE CASTRO, J.:

Assailed before the Court under Rule 45 of the Rules of Court is the Decision^[1] dated July 12, 2011 of the Court of Appeals in CA-G.R. SP No. 99906, which (a) reversed and set aside Resolution No. 070560^[2] dated March 19, 2007 and Resolution No. 071241^[3] dated June 22, 2007 of petitioner Civil Service Commission (CSC); and (b) ordered the reinstatement of respondent Crisostomo M. Plopinio to his former position at the Commission on Elections (COMELEC) and payment of his back salaries for a maximum period of five years. The CSC earlier affirmed COMELEC Resolution No. 03-0278^[4] dated September 11, 2003 and Resolution No. 04-0019^[5] dated February 10, 2004 dropping respondent from the rolls of employees of the COMELEC for his absences without official leave (AWOL) for a continuous period of at least 30 days.

COMELEC Proceedings

Respondent served as a COMELEC Election Officer III of Sipocot, Camarines Sur, prior to his separation from the service. A certain Alberto G. Adan (Adan) filed a letter-complaint against respondent alleging that because of respondent's frequent absences, respondent failed to act on Adan's petition for disqualification of a barangay candidate named Jessie V. Sanchez.

Acting Director IV Adolfo A. Ibañez (Dir. Ibañez), Personnel Department, COMELEC, conducted an investigation into Adan's letter-complaint against respondent and submitted a Memorandum dated August 20, 2003 to Commissioner Florentino A. Tuason, Jr. (Com. Tuason), COMELEC, who, in turn, forwarded the same to the COMELEC *en banc* for appropriate action. In its Resolution No. 03-0278 dated September 11, 2003, the COMELEC *en banc* adopted *in toto* Atty. Ibañez's findings and recommendation, thus:

This pertains to the Memorandum dated August 29, 2003 of Commissioner Florentino A. Tuason, Jr., forwarding the Memorandum of Atty. Adolfo A. Ibañez, Acting Director IV, Personnel Department, relative to the letter-complaint of Mr. Alberto G. Adan against Election Officer [respondent], Sipocot, Camarines Sur, to act upon his petition for the disqualification of candidate Jessie V. Sanchez due to [respondent's] frequent absences and dropping of [respondent] from the rolls of Comelec employees.

Memorandum of [Com.] Tuason -

"Respectfully forwarded is the attached Memorandum of Atty. Adolfo A. Ibañez. Acting Director IV, Personnel Department relative to the letter-complaint of Mr. Alberto G. Adan against [respondent] of Sipacot, Camarines Sur and the failure of [respondent] to act upon his petition for the disqualification of candidate Jessie V. Sanchez due to [respondent's] frequent absences.

For consideration of the Commission En Banc."

Memorandum of Director Adolfo A. Ibañez

"This pertains to the letter-complaint of Mr. Alberto G. Adan against Election Officer [respondent] of Sipocot, Camarines Sur alleging the latter's failure to act on his petition to disqualify candidate Jessie V. Sanchez due to frequent absences.

Upon receipt of the complaint by the Office of the Chairman, Atty. Jaime Z. Paz, Head Executive Assistant of the same office gave [respondent] fifteen (15) days within which to submit his comment on the allegations as part of due process.

In his Answer dated July 30, 2003, [respondent] dismissed the instant complaint as baseless and unfounded. According to him, the issue had already been thoroughly explained before the Director of the Law Department and that pertinent documents had already been submitted to that department. Nonetheless, he reiterated in the said answer his comment to give clarity to the allegations of Mr. Adan.

Considering that it is no longer within the jurisdiction of his office to tackle the merits of the petition filed by Mr. Adan to disqualify a certain candidate, we will simply limit the issue on whether or not the alleged failure of [respondent] to act on the petition is due to his frequent unauthorized absences.

COMMENT/RECOMMENDATION

An update of [respondent's] records with the Personnel Department showed that he failed to file his daily time records for the months of January, February, March, and April 2002, although he managed to submit his May-December 2002 dtrs duly signed by the [Provincial Election Supervisor (PES)] of Camarines Sur. However, [respondent] again deliberately failed to file his daily time records beginning January until present of the current year. Although he was notified to submit his dtrs immediately to avoid withholding of his salaries and other benefits, he has not complied to date. As a result thereof his salaries were withheld effective July of this

year. Copy of the memorandum issued to [respondent] is hereto attached and made an integral part hereof.

As the best evidence of his presence in his official work station, he should submit his daily time records to monitor the attendance in his workplace. Hence, if he failed to file his dtrs for a certain period, he is presumed to be absent during such time since there is no record evidencing that he reported for work during that period.

His non-filing of daily time records during the aforementioned period is construed as absence without official leave (AWOL) for at least thirty (30) calendar days warranting his separation from the service in consonance with the provision of Section 2 (2.1a), Rule XII of the Omnibus Rules on Appointment and other Personnel Actions.

Foregoing considerations, the undersigned respectfully recommends that [respondent] be dropped from the rolls of Comelec Employees effective January 1, 2003 and the salaries paid until June 30, 2003 be charged against his leave credits. However, the same shall be without prejudice to the filing of formal charge for violating reasonable office rules and regulations in view of his deliberate failure to submit his daily time records for the months of January to April 2002 and from January until present of the current year. Respectfully submitted."

Considering the foregoing, the Commission RESOLVED, as it hereby RESOLVES, to approve the recommendation of Director Adolfo A. Ibañez to drop [respondent] from the rolls of Comelec employees effective January 1, 2003 and the salaries paid to him until June 30, 2003 be charged against his leave credits. However, the same shall be without prejudice to the filing of formal charge for violating reasonable office rules and regulations in view of his deliberate failure to submit his daily time records for the months of January to April 2002 and from January until present of the current year.^[6]

Com. Tuason then issued a Memorandum^[7] dated October 7, 2003, directing respondent to immediately cease and desist from performing his official duties, based, among other grounds, on his unauthorized absences; and appointing an Acting Election Officer to serve the Municipality of Sipocot, Camarines Sur, in order not to jeopardize the voters' registration process at said Municipality.

Meanwhile, Dir. Ibañez also issued a Memorandum dated October 7, 2003^[8] for the COMELEC *en banc*, withdrawing his earlier recommendation to drop respondent from the rolls of employees. Dir. Ibañez justified the change in his findings and recommendation, thus:

This pertains to our previous recommendation to drop from the roll of Comelec employees [respondent], Sipocot, Camarines Sur, as embodied in our memorandum dated 20 August 2003, received by the Office of

Commissioner Florentino A. Tuason, Jr., CIC for Region V, on 27 August 2003.

The above recommendation stemmed from a complaint filed by a certain Alberto G. Adan alleging [respondent's] failure to act on his petition to disqualify barangay candidate Jessie V. Sanchez due to frequent absences.

Considering that it is no longer within our jurisdiction to tackle the merits of the petition for the disqualification of a certain barangay candidate, we limited our investigation on whether or not the alleged failure of [respondent] to act on the petition was due to frequent unauthorized absences.

Later verification from the records disclosed that [respondent] has no daily time record submitted with the Leave Section beginning January 2003 until present, thus, prompting Director Fe G. Campos to issue her 13 August 2003 memorandum reminding [respondent] to update his daily time records, otherwise his salary and other benefits will be withheld.

In the absence then of [respondent's] timely reply, we recommended for his dropping considering that under Civil Service Rules, his non-submission of daily time records for the said period is already construed as absence without official leave (AWOL) for at least thirty (30) days warranting his separation from the service.

Subsequently, or on August 29, 2003, we received Atty. Liza D. Zabala-Cariño's memorandum submitting therewith the unverified daily time records of [respondent] for the months of June and July 2003 with the justification why she refused to sign the daily time records. According to her, the daily time records revealed that [respondent] was out of his station on certain dates but the same reflected that he was on OB either to the Regional Trial Court or to the Comelec, Manila. These travels on OB, however, although not known to PES Cariño, are being contested by the latter allegedly for being unauthorized considering that the purpose for the said appearances were personal in nature.

On the other hand, [respondent], in answer to the 13 August 2003 memorandum of Director Fe Campos asserted that his duly accomplished daily time records from January 2003 to present were already submitted to the Office of the Provincial Election Supervisor with the corresponding date of receipt by the OPES.

Because of the foregoing superseding events, it appears that [respondent] was reporting, as he did report to office on certain days per his daily time records submitted to the OPES. One key issue however is that many DTR entries were being questioned by [respondent's] supervisor for being invalid or unauthorized considering his reported absences.

Consequently, because of the inability to fully establish a

successive thirty-day absence without approved leave (AWOL) on the part of [respondent], the undersigned withdraws his former recommendation to drop from the rolls.

However, considering that [respondent] incurred a series of unauthorized or questioned absences, it is recommended that PES Cariño file an administrative complaint against [respondent] for absenteeism and other administrative disciplinary cases as warranted.

Finally, considering the problem that is now obtaining in the Office of the Election Officer of Sipocot, Camarines Sur and in the exigency of the service, it is recommended that [respondent] be immediately reassigned pursuant to the provisions of R.A. 8189. (Emphases supplied.)

Through his Memorandum^[9] dated October 16, 2003 for the COMELEC *en banc*, respondent sought reconsideration of COMELEC Resolution No. 03-0278, as well as Com. Tuason's Memorandum dated October 7, 2003. Respondent lamented that the COMELEC *en banc* was misled by Dir. Ibañez's initial recommendation to drop him from the rolls of employees, which lacked factual and legal bases; and that he was not afforded due process as he was never confronted with any formal charge regarding his alleged absenteeism prior to COMELEC Resolution No. 03-0278. Respondent invited attention to the following documents attached to his Memorandum:

1. Memorandum For Atty. ADOLFO A. IBAÑEZ, Acting Director IV, Personnel Department This Commission, thru Atty. PIO JOSE S. JOSON, Deputy Executive Director for Operations, This Commission, and Hon. LUZVIMINDA G. TANCANGCO, Commissioner-In-Charge, Personnel Department, This Commission dated 04 August 2003, re SUBMISSION OF ALL OFFICE COMMUNICATION (INCOMING/OUTGOING) AND OTHER PERTINENT DOCUMENTS FOR THE PERIOD OF JANUARY TO MAY 2003 ESTABLISHING AND DELINEATING PARTICULAR OFFICE TRANSACTIONS WHICH CONSTITUTE CLARIFICATION AND THOROUGH EXPLANATION AGAINST THE MATTER OF WITHHOLDING THE SALARIES OF [respondent] BY THE PERSONNEL DEPARTMENT (Annex A);
2. Memorandum for Atty. LIZA ZABALA-CARIÑO, Acting Provincial Election Supervisor for Camarines Sur, dated March 5, 2002 re: SUBMISSION OF DAILY TIME RECORDS of [respondent] for the MONTHS OF JANUARY and FEBRUARY 2002 which was received on March 8, 2002 by Mrs. ROSITA NIEVES, Election Assistant, OPES, Camarines Sur (Annex B);
3. Memorandum for Atty. LIZA ZABALA-CARIÑO, Acting Provincial Election Supervisor For Camarines Sur, dated May 14, 2002 re: SUBMISSION OF DAILY TIME RECORDS of [respondent] for the MONTHS OF MARCH and APRIL 2002 which was received on May 17, 2002 by Mrs. ROSITA NIEVES, Election Assistant OPES, Camarines Sur (Annex C);