

EN BANC

[G.R. No. 193773, April 02, 2013]

**TERESITA L. SALVA, PETITIONER, VS. FLAVIANA M. VALLE,
RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Assailed in this petition for review on certiorari under Rule 45 is the Decision^[1] dated August 25, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 103622.

The facts leading to the present controversy, as summarized by the CA:

On June 11, 2004, petitioner Teresita L. Salva (petitioner hereafter), President of Palawan State University (PSU), issued Office Order No. 061 reassigning four (4) PSU faculty members of the College of Arts and Humanities to various Extramural Studies Centers. She assigned respondent Flaviana M. Valle (respondent hereafter) at Brooke's Point, Palawan.

In a letter dated June 17, 2004, respondent informed petitioner that her net take home pay is only P378.66 per month and that she needed financial assistance in the total amount of P5,100.00 to support her stay at Brooke's Point. Pending the approval of her request, respondent asked that she be allowed to report to the main campus. But, it appears that as early as respondent's receipt of the reassignment order, her teaching load or subjects in the main campus were already distributed to other faculty members.

When respondent did not report to her new assignment, petitioner issued a memorandum directing respondent to explain in writing within seventy two (72) hours why no disciplinary action should be taken against her. Respondent stated that upon approval of her request for financial assistance, she will immediately report to her new place of assignment. On June 25, 2004, respondent received an endorsement approving her travel expenses.

On June 30, 2004, William M. Herrera, Director of PSU-Brooke's Point, informed petitioner that respondent merely reported for two to three hours on June 15, 2004 and did not return since then. Thus, petitioner issued another memorandum directing respondent to explain within 72 hours why she should not be administratively charged with insubordination for failure to comply with the order of reassignment (Office Order No. 061). Again, respondent declared that her failure to

report to her new station was due to her poor financial status.

Finding respondent's explanation unsatisfactory, petitioner issued Administrative Order No. 001 dated July 5, 2004 imposing upon respondent the penalty of one (1) month suspension from office without pay. Respondent's motion for reconsideration was denied.

When respondent's suspension expired, on August 5, 2004, petitioner issued another memorandum directing respondent to immediately report at Brooke's Point. Petitioner informed respondent that she, her husband and minor children are entitled to traveling and freight expenses. Respondent filed another motion for reconsideration stressing that her relocation would result in financial distress to her family. Again, she requested that she remain at the main campus.

Petitioner issued another memorandum directing respondent to explain within 72 hours why she should not be administratively charged with insubordination. Instead of tendering an explanation, respondent sent petitioner a letter dated August 30, 2004 stating that she has appealed petitioner's order of reassignment and suspension to the PSU Board of Regents. She requested for the deferment of any action against her. However, petitioner claimed that respondent failed to furnish her a copy of the notice of appeal. Thus, on September 13, 2004, petitioner issued Administrative Order No. 003 finding respondent guilty of insubordination for the second time and imposing upon her the supreme penalty of dismissal from service. When reconsideration was denied, respondent appealed to the PSU Board seeking nullification of petitioner's orders. She argued that she was unceremoniously dismissed without cause and due process and that her dismissal was flawed due to procedural infirmities such as lack of formal complaint and hearing.

Finding petitioner's actions in order, the PSU Board, in a Resolution dated November 17, 2004, confirmed petitioner's orders, to wit: (1) Office Order No. 061 reassigning respondent to Brooke's Point; (2) Administrative Order No. 001 suspending her for a month; and (3) Administrative Order No. 003 terminating her from service with cancellation of eligibility, forfeiture of leave credits and retirement benefits and disqualification from government service.

On December 13, 2004, respondent received her copy of the PSU Board's decision confirming the orders issued by petitioner. As the PSU Board Resolution dated November 17, 2004 was allegedly unsigned, respondent wrote a letter dated January 7, 2005 to Rev. Fr. Rolando V. Dela Rosa, O.P., the Chairman of the PSU Board and Commission on Higher Education (CHED). She sought to clarify whether the resolution was already approved in a referendum and whether the PSU Board intended to release the said resolution.

On February 18, 2005, respondent was furnished a copy of the PSU Board referendum [dated December 6, 2004] which approved and formalized the November 17, 2004 Resolution. Subsequently, on May 6, 2005, respondent received the CHED memoranda dated November 16,

2004 and February 11, 2005 stating that due process was not observed. The CHED, then, recommended the deferment of the dismissal order to give way to the proper observance of the rules of procedure. When the PSU Board did not act on the said recommendation, on July 14, 2005 or almost five (5) months from her receipt of the referendum, respondent filed her Memorandum of Appeal to the CSC.^[2]

On July 3, 2007, the Civil Service Commission (CSC) issued Resolution No. 071255^[3] granting respondent's appeal, as follows:

WHEREFORE, the appeal of Flaviana M. Valle, Palawan State University, is hereby **GRANTED**. Accordingly, the instant case is hereby **REMANDED** to the Palawan State University, Puerto Princesa City, Palawan, for the issuance of the required formal charge, if the evidence so warrants, and thereafter to proceed with the formal investigation of the case. The formal investigation should be completed within three (3) calendar months from the date of receipt of the records from the Commission. Within fifteen (15) days from the termination of the investigation, the disciplining authority shall render its decision, otherwise, the Commission shall vacate and set aside the appealed decision and declare respondent exonerated from the charge.

The Director IV of the Civil Service Commission Regional Office No. IV, Panay Avenue, Quezon City, is hereby directed to monitor the implementation of this Resolution and submit a report to the Commission.^[4]

The CSC found that respondent was not afforded due process as there was no formal charge issued against her before she was adjudged guilty of insubordination and meted the penalty of dismissal. Petitioner filed a motion for reconsideration^[5] but the CSC denied it under Resolution No. 080582^[6] dated April 10, 2008.

Dissatisfied, petitioner filed a petition for review under Rule 43 in the CA. By Decision dated August 25, 2010, the CA sustained the ruling of the CSC.

Hence, this petition alleging that –

THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE RESPONDENT WAS DISMISSED FROM THE SERVICE WITHOUT THE REQUISITE FORMAL CHARGE

THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE CIRCUMSTANCES SURROUNDING RESPONDENT'S DISMISSAL FROM THE SERVICE WERE SHORT OF SUBSTANTIAL COMPLIANCE WITH THE DUE PROCESS REQUIREMENTS^[7]

Petitioner argues that the requisite formal charge had been duly complied through

her issuance of memorandum orders which were in the nature of a formal charge contemplated under the civil service rules. With these memoranda, respondent was apprised of the offense she had committed and afforded her the opportunity to ventilate within a period of 72 hours from receipt of the same the reasons why she should not be held liable for such offense. Petitioner asserts that subsequent issuance of another directive captioned "formal charge" would have been an exercise in redundancy that would serve no purpose other than to unduly prolong the administrative proceeding, which could not be the intendment of the rules. Moreover, respondent's "[participation] in the administrative proceedings initiated against her by the Petitioner x x x likewise x x x supports the stance that proper administrative charges were initiated against her and militates [against respondent's] contention that due process was not accorded her."^[8]

We disagree.

A formal charge issued prior to the imposition of administrative sanctions must conform to the requirements set forth in Section 16, Rule II of the Uniform Rules on Administrative Cases in the Civil Service^[9] (URACCS), which reads:

SEC. 16. *Formal Charge.* – After a finding of a prima facie case, the disciplining authority shall formally charge the person complained of. The formal charge shall contain a specification of charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by a counsel of his choice.

If the respondent has submitted his comment and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence.

The disciplining authority shall not entertain requests for clarification, bills of particulars or motions to dismiss which are obviously designed to delay the administrative proceedings. If any of these pleadings are interposed by the respondent, the same shall be considered as an answer and shall be evaluated as such.

We have held that if the purported "formal charge" does not contain the foregoing, it cannot be said that the employee concerned has been formally charged.^[10] Thus:

Citing CSC Resolution No. 99-1936 entitled "Uniform Rules on Administrative Cases in the Civil Service," particularly Section 16 thereof on the requirement of a formal charge in investigations, the appellate court correctly ruled that:

As contemplated under the foregoing provision, a formal charge is a written specification of the charge(s) against an employee. While its form may vary, it generally embodies a brief statement of the material and relevant facts constituting the basis of the charge(s); a directive for the employee to answer the charge(s) in writing and under oath, accompanied by his/her evidence; and advice for the employee to indicate in his/her answer whether he/she elects a formal investigation; and a notice that he/she may secure the assistance of a counsel of his/her own choice. A cursory reading of the purported formal charge issued to Manahan shows that the same is defective as it does not contain the abovementioned statements, and it was not issued by the proper disciplining authority. Hence, under the foregoing factual and legal milieu, Manahan is not deemed to have been formally charged.

Reference to CSC Resolution No. 99-1936 is proper, being the law applicable to formal charges in the civil service prior to the imposition of administrative sanctions. The requirements under Section 16 thereof are clear x x x.^[11]

The Memorandum dated August 24, 2004 issued by petitioner to respondent prior to Administrative Order No. 003^[12] dated September 13, 2004 imposing on her the penalty of dismissal, is therefore defective as it did not contain the statements required by Section 16 of the URACCS:

August 24, 2004

MEMORANDUM

TO: Asst. Prof. Flaviana M. Valle
This University

Subject: Administrative Case For Insubordination

You are hereby directed to explain within 72 hours from receipt hereof why no disciplinary action be taken against you for the administrative offense of Insubordination for your failure and/or refusal to comply with Memorandum Order dated August 5, 2004 requiring you to report to the PSU Extramural Studies Center at Brooke's Point, Palawan where you were reassigned as a faculty member. As per written report dated August 19, 2004 of Director William M. Herrera, you have not yet reported for work to the said center.

(SGD.)
TERESITA L.
SALVA
President^[13]