721 Phil. 124

SECOND DIVISION

[G.R. No. 176702, November 13, 2013]

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. MARCELINO A. DECHAVEZ, RESPONDENT.

D E C I S I O N

BRION, J.:

The petitioner, Office of the Ombudsman (*Ombudsman*), seeks in this Rule 45 petition for review on *certiorari*[1] the reversal of the Court of Appeals' (*CA's*) decision[2] and resolution[3] reversing the Ombudsman's rulings[4] that dismissed respondent Marcelino A. Dechavez (*Dechavez*) from the service for dishonesty.

THE FACTS

The attendant facts are not complicated and, in fact, involve the oft-repeated scenario in the public service workplace – a complaint by subordinate employees against their superior officer for misconduct in office. In a twist of fortune (or misfortune), an accident triggered the whole train of events that led to the present case.

Dechavez was the president of the Negros State College of Agriculture (*NSCA*) from 2001 until his retirement on April 9, 2006. On May 5, 2002, a Sunday, Dechavez and his wife, Amelia M. Dechavez (*Mrs. Dechavez*), used the college service Suzuki Vitara to go to Pontevedra, Negros Occidental. Dechavez drove the vehicle himself. On their way back to the NSCA, they figured in a vehicular accident in Himamaylan City, resulting in minor injuries to the occupants and damage to the vehicle.

To support his claim for insurance, Dechavez executed an affidavit[5] before the Government Service Insurance System (*GSIS*). The GSIS subsequently granted Dechavez's claims amounting to P308,000.00, while the NSCA shouldered P71,000.00 as its share in the vehicle's depreciation expense. The GSIS released P6,000.00 for Mrs. Dechavez's third-party liability claim for bodily injuries.

On November 11, 2002, twenty (20) faculty and staff members of the NSCA (*complainants*) asked the Commission on Audit (*COA*) to conduct an audit investigation of NSCA's expenditures in the May 5, 2002 vehicular accident. The COA dismissed the complaint for lack of merit.[6]

The complainants then sought recourse with the Ombudsman, Visayas, through a verified complaint[7] charging Dechavez with Dishonesty under Section 46(b)(1), Chapter 6, Tile I of the Administrative Code of 1987.[8]

THE OMBUDSMAN'S RULING

The Ombudsman dismissed Dechavez from the service with all accessory penalties after finding him guilty.[9] The Ombudsman ruled that the complainants sufficiently established their allegations, while Dechavez's defenses had been successfully rebutted. The motion for reconsideration that Dechavez filed was subsequently denied.[10]

THE CA'S RULING

The CA examined the same pieces of evidence that the Ombudsman considered and **reversed the Ombudsman's findings**.[11]

In complete contrast with the Ombudsman's rulings, the CA found that the complainants failed to sufficiently show that Dechavez had deliberately lied in his May 10, 2002 affidavit. Dechavez sufficiently proved that he went on an official trip, based on the reasons outlined below and its reading of the evidence:

First, there was nothing wrong if Dechavez worked on a Sunday; he must, in fact, be commended for his dedication.

Second, the Ombudsman should have accorded greater belief on the NSCA drivers' positive assertion that they were not available to drive for Mr. and Mrs. Dechavez (as they had serviced other faculty members at that time), as against the NSCA security guards' allegation that these drivers were available then (because they allegedly saw the drivers within the college premises on that Sunday); speculations on the nature of the trip should not arise simply because Dechavez personally drove the vehicle.

Third, the certifications of Mr. Larry Parroco (Pontevedra Sanggunian Bayan Member) and Mr. Cornelio Geanga (Chair of the Education Committee and Head Teacher of the M.H. Del Pilar Elementary School) should have persuaded the Ombudsman that the affiants are public officials who would not lightly issue a certification or falsely execute affidavits as they know the implications and consequences of any falsity.

Fourth and lastly, the two lists of teaching instructors had been prepared by the same person, and if the second list had indeed been questionable, Mr. Pablito Cuizon (NSCA's Chairman for Instructions) would have not attached the second list to his affidavit.

On February 7, 2007, the CA denied[12] the motion for reconsideration filed by the Ombudsman.

THE PARTIES' ARGUMENTS

The Ombudsman argues that the guilt of Dechavez has been proven by substantial evidence – the quantum of evidence required in administrative proceedings. It likewise invokes its findings and posits that because they are supported by substantial evidence, they deserve great weight and must be accorded full respect and credit.

Dechavez counters that the present petition raises factual issues that are improper for a petition for review on *certiorari* under Rule 45. He adds that the present case has been mooted by his retirement from the service on April 9, 2006, and should properly be dismissed.

THE COURT'S RULING

The Court finds the petition meritorious.

The CA's factual findings are conclusive; exceptions

The rule that the Court will not disturb the CA's findings of fact is not an absolute rule that admits of no exceptions.[13] A notable exception is the presence of conflict of findings of fact between or among the tribunals' rulings on questions of fact. The case before us squarely falls under this exception as the tribunals below made *two critical conflicting factual findings.* We are thus compelled to undertake our own factual examination of the evidence presented.

This Court cannot be any clearer in laying down the rule on the quantum of evidence to support an administrative ruling: "In administrative cases, substantial evidence is required to support any findings. Substantial evidence is such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The requirement is satisfied where there is reasonable ground to believe that the petitioner is guilty of the act or omission complained of, even if the evidence might not be overwhelming."[14]

Our own examination of the records tells us that the Ombudsman's findings and appreciation of the presented evidence are more in accord with reason and common experience so that it successfully proved, by the required quantum of evidence, Dechavez's dishonesty, at the same time that we find the respondent's reading of the evidence to be stretched to the point of breaking, as our analysis below shows.

We start with our agreement with the CA's view that the Ombudsman's finding – that Dechavez was not on official business on May 5, 2002 because it was a Sunday (a non-working day) – by itself, is not sufficient basis for the conclusion that Dechavez's business on that day was not official. We, nevertheless, examined the other surrounding facts and are convinced that the spouses Dechavez's trip was a personal one; thus, Dechavez had been dishonest when he made the claim that he went on official business. The dishonesty, of course, did not arise simply from the nature of the trip, but from the claim for insurance that brought the spouses a substantial sum.

First. Dechavez alleged that the trip was urgent, and there were no drivers available; hence, he drove the vehicle himself. He added that the fact that the trip ticket was accomplished on May 5, 2002, a Sunday, and that it was typewritten, are not material as he was not prohibited from driving the car himself.

We do not agree with Dechavez's claim about the immateriality of the trip ticket; it was presented as evidence and, as such, carries implications far beyond what

Dechavez claims. The fact alone that the ticket, for a trip that was allegedly urgent, was typewritten already speaks volumes about the integrity of this piece of evidence. We agree with the Ombudsman, based on common experience and probability, that had the trip really been urgent and had the trip ticket been accomplished on the date of the trip, May 5, 2002, it would have been handwritten. The trip ticket, however, was typewritten, indicating that it had been prepared ahead of time, or thereafter, not on that Sunday immediately before leaving on an urgent trip. In fact, if it had been prepared ahead of time, then the trip could not have been urgent as there was advance planning involved.

In other words, if the trip ticket had been prepared ahead of time, the trip should have been scheduled ahead of time, and necessary arrangements should have been made for the availability of a driver. Therefore, it was unlikely that Dechavez would have known that no driver would be available for him on the date of the trip.

On another note, if the trip ticket had been prepared after the trip, the Ombudsman was correct in observing that Dechavez had no authority to drive the vehicle in the absence of the requisite trip ticket.[15] Worse, if it had been prepared after the trip after an accident had intervened, then there had been a conscious attempt to "sanitize" the incidents of the trip. It is at this point where the claim for insurance becomes material; the trip ticket removed all questions about the regularity and official character of the trip.

After examining the testimonies, too, we lean in favor of the view that there were available drivers on May 5, 2002, contrary to what Dechavez claimed. As between the assertion of the security guards that they had seen available drivers on the day of the trip, and the drivers' denial (and assertion that they had serviced other faculty members at that time), the settled evidentiary rule is that "as between a positive and categorical testimony which has a ring of truth, on one hand[,] and a bare denial[,] on the other, the former is generally held to prevail."[16] Furthermore, while Dechavez insists that the allegations of the drivers were corroborated by the teachers they had driven for, the attestations of these teachers remained to be hearsay: Dechavez failed to present their attestations in evidence.

Dechavez additionally argues that the way the trip ticket was accomplished bears no significance in these circumstances, insisting further that it is of no moment that he drove the vehicle himself, as he was not prohibited from doing so. Read in isolation, the Court might just have found these positions convincing. Read with the other attendant circumstances, however, the argument becomes shaky.

If Dechavez thought that there was nothing wrong in driving the vehicle himself, why would he indicate that the reason he drove the vehicle himself was that there were no available drivers, and that it was urgent? Finally, if indeed it was true that Dechavez used to perform his extension service or confer with the NSCA's linkages during weekends, how come the trip became urgent and the driver had not been assigned beforehand?

Second. We cannot give weight to the certification of Mr. Parroco that Dechavez used to visit the Pontevedra District to coordinate with his office, and that Dechavez also visited his office on May 5, 2002. We likewise disregard the statement of Mr. Geanga that Dechavez appeared before his office on May 5, 2002. The certifications