

EN BANC

[G.R. No. 189529, August 10, 2012]

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) AND
WINSTON F. GARCIA, IN HIS CAPACITY AS PRESIDENT AND
GENERAL MANAGER OF THE GSIS, PETITIONER, VS. MARICAR B.
BUENVIAJE-CARREON, RESPONDENT.**

R E S O L U T I O N

PEREZ, J.:

This petition for review on *certiorari* seeks the reversal of the Decision^[1] dated 20 February 2009 of the Court of Appeals in CA-G.R. SP No. 103539, which affirmed Resolution No. 07-1350 of the Civil Service Commission (CSC) finding respondent Maricar B. Buenviaje-Carreon not guilty of Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service, but only of Violation of Reasonable Office Rules and Regulations.

Respondent was holding the position of Social Insurance Specialist of the Claims Department of Government Service Insurance System (GSIS) when she was administratively charged with Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service for the following acts:

1. Wearing red shirt and marching to or appearing at the office of the Investigation Unit in protest and to support Atty. Mario Molina (Atty. Molina) and Atty. Albert Velasco (Atty. Velasco);
2. Conspiring with other employees and temporarily leaving her workplace, and abandoning her post and duties;
3. Badmouthing the security guards and the GSIS management and defiantly raising clenched fists; and
4. Causing alarm, frightening some employees, and disrupting the work at the Investigation Unit during office hours.^[2]

The GSIS Investigation Unit issued a Memorandum dated 31 May 2005 concerning the alleged unauthorized concerted activity and requiring respondent to explain in writing why she should not be administratively dealt with.^[3]

In the Formal Charge dated 4 June 2005 signed by the GSIS President and General Manager Winston F. Garcia (Garcia), respondent was directed to submit her written answer and was placed under preventive suspension for ninety (90) days.^[4]

Instead of answering the Formal Charge, respondent, together with eight (8) other

charged employees,^[5] chose to respond to the 31 May 2005 Memorandum. Respondent essentially admitted that her presence outside the office of the Investigation Unit was to show support for Atty. Velasco, the Union President and to witness the case hearing of Atty. Velasco and Atty. Molina.^[6]

In a Decision dated 29 June 2005 for Administrative Case No. 05-004, respondent was found guilty of the charges against her and penalized as follow:

WHEREFORE, PREMISES CONSIDERED, finding herein respondent guilty of the charges against her, she is hereby penalized with ONE (1) YEAR SUSPENSION with all the accessory penalties appurtenant thereto pursuant to Section 5 and 6 Rule V of the Amended Policy and Procedural Guidelines No. 178-04 otherwise known as Rules of Procedure in Administrative Investigations (RPAI) of GSIS Employees and Officials in relation to Sections 56(d) and 58(d) of the Uniform Rules on Administrative Cases in the Civil Service (URACCS). The period however of her preventive suspension shall be deducted therefrom.^[7]

The GSIS noted that respondent has not filed any Answer nor submitted any responsive pleading to the Formal Charge. Respondent was found to have participated in a concerted mass action prohibited by law and staged on 27 May 2005 at the Investigation Unit Office to show support for Atty. Molina who had a scheduled hearing during that time.⁸

On appeal, the respondent asserted that her right to due process was violated when GSIS proceeded to render judgment on the case after she failed to submit her answer to the Formal Charge. Moreover, she averred that Garcia acted as the complainant, prosecutor and judge at the same time in the GSIS resolution. She insisted that no substantial evidence exist to hold her guilty of Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service.

On 18 July 2007, the CSC rendered judgment partially granting the appeal, to wit:

WHEREFORE, the appeal of Maricar Buenviaje-Carreon, Social Insurance Specialist, Claims Department, Government Service Insurance System (GSIS) is PARTIALLY GRANTED. Accordingly, the Decision dated June 29, 2005 of Winston F. Garcia, President and General Manager, GSIS, finding her guilty of Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service and imposing upon her the penalty of suspension from the service for one (1) year, is MODIFIED. Carreon is found guilty only of the lesser offense of Violation of Reasonable Office Rules and Regulations and is imposed the penalty of reprimand.^[9]

GSIS filed a motion for reconsideration of the CSC Resolution but it was denied by the CSC on 31 March 2008.

GSIS elevated the case to the Court of Appeals *via* Petition for *Certiorari*. On 20 February 2009, the Court of Appeals denied the petition and adopted the ruling of

the Court of Appeals Seventh Division dated 31 August 2007 in the case entitled *GSIS v. Dinna Villariza*, which according to the appellate court, has substantially the same facts and issues raised with the instant case.

Undaunted, GSIS filed the instant petition raising the following grounds for its appeal:

I.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT THE GSIS CANNOT APPLY SUPPLETORILY THE PROVISIONS OF THE RULES OF COURT ON THE EFFECT OF FAILURE TO DENY THE ALLEGATIONS IN THE COMPLAINT AND FAILURE TO FILE AN ANSWER, WHERE THE RESPONDENT IN AN ADMINISTRATIVE CASE DID NOT FILE AN ANSWER TO THE FORMAL CHARGE OR ANY RESPONSIVE PLEADING.

II.

THE HONORABLE COURT OF APPEALS' FINDING THAT THE CIVIL SERVICE COMMISSION CAN VALIDLY CONSIDER AND GIVE FULL PROBATIVE VALUE TO AN UNNOTARIZED LETTER THAT DID NOT FORM PART OF THE CASE RECORD, SUPPOSEDLY IN LINE WITH THE RULE THAT ADMINISTRATIVE DUE PROCESS CANNOT BE EQUATED WITH DUE PROCESS IN JUDICIAL SENSE, IS CONTRARY TO THE SETTLED JURISPRUDENCE ON ADMINISTRATIVE DUE PROCESS.

III.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN SUSTAINING A DECISION THAT, ON ONE HAND, MAKES CONCLUSIONS OF FACTS BASED ON EVIDENCE ON RECORD AND, ON THE OTHER HAND, MAKES A CONCLUSION OF LAW BASED ON A DOCUMENT THAT DID NOT FORM PART OF THE CASE RECORD.

IV.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN HOLDING THAT PROOF OF SUBSTANTIAL REDUCTION OF THE OPERATIONAL CAPACITY OF AN AGENCY, DUE TO UNRULY MASS GATHERING OF GOVERNMENT EMPLOYEES INSIDE OFFICE PREMISES AND WITHIN OFFICE HOURS, IS REQUIRED TO JUSTIFY A FINDING THAT SAID EMPLOYEES ARE LIABLE FOR CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE PURSUANT TO CSC RESOLUTION NO. 021316.

V.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN HOLDING THAT AN UNRULY MASS GATHERING OF TWENTY EMPLOYEES, LASTING FOR MORE THAN AN HOUR, INSIDE OFFICE PREMISES, TO PROTEST A VALID PROHIBITION ON THEIR LEADER'S APPEARANCE AS