

EN BANC

[G.R. No. 180146, December 18, 2008]

PO2 RUEL C. MONTOYA PETITIONER, VS. POLICE DIRECTOR REYNALDO P. VARILLA, REGIONAL DIRECTOR, NATIONAL CAPITAL REGION, POLICE OFFICE AND ATTY. RUFINO JEFFREY L. MANERE, REGIONAL LEGAL AFFAIRS SERVICE, RESPONDENTS.

DECISION

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court seeking to nullify and set aside the Decision^[1] dated 9 August 2007 and Resolution ^[2] dated 18 October 2007 of the Court of Appeals in CA- G.R. SP No. 96022, which affirmed Resolutions No. 05-1200 and No. 06-1500 dated 24 August 2005 and 23 August 2006, respectively, of the Civil Service Commission (CSC), dismissing petitioner Police Officer 2 (PO2) Ruel C. Montoya from the police service.

The following are the factual antecedents:

Montoya, a member of the Philippine National Police (PNP), was assigned to the Central Police District (CPD) in Quezon City, when the National Police Commission (NAPOLCOM) issued Special Order No. 1044^[3] on 9 September 1998 dropping him from the rolls, effective 15 August 1998, for failure to attend the Law Enforcement and Enhancement Course (LEEC) at the Special Training Unit, National Capital Region Police Office (NCRPO), Camp Bagong Diwa, Taguig City. Montoya had been absent without official leave (AWOL) for a period of 67 days, from 23 January 1998 to 31 March 1998.

On 15 December 1998, four months after he was dropped from the rolls, Montoya filed a Motion for Reconsideration thereof addressed to the PNP Regional Director for the National Capital Region (NCR), explaining that on 22 January 1998, he went to the Baler Police Station/Police Station 2 to have his Sick Leave Form approved by the station commander. Allegedly due to the fact that his name had already been forwarded to the NCRPO for the LEEC, his Sick Leave Form was not approved. Montoya averred that his failure to attend the LEEC was beyond his control, since he was suffering from arthritis with on and off symptoms of severe body pain. Montoya attached to his Motion a certification simply dated 1998, issued by a certain Dr. Jesus G. de Guzman, and authenticated by Police Chief Inspector (P/CINSP.) Ethel Y. Tesoro, Chief, Medical Service, CPD.

Upon the recommendation of the Chief of the NCRPO Legal Division, the NCR Regional Director issued on 11 June 1999 Special Order No. 990 canceling Special Order No. 1044. Montoya was also preventively suspended for 30 days, from 8 June to 8 July 1999, pending Summary Proceedings of his administrative liability. The 67

days when Montoya went on absence without leave (AWOL) were immediately deducted from his leave credits.

The Summary Dismissal Proceedings against Montoya were conducted by Hearing Officer Police Superintendent (P/Supt.) Francisco Don C. Montenegro of the Central Police District Office (CPDO), and based on his findings, the NCR Regional Director rendered a Decision^[4] on 23 June 2000 dismissing Montoya from the police service for Serious Neglect of Duty (due to AWOL), effective immediately. Montoya received a copy of said Decision on 20 July 2000.

Allegedly unassisted by counsel, Montoya filed on 1 August 2000 with the CPD office a Petition for Review/Motion for Reconsideration^[5] of the 23 June 2000 Decision of the NCR Regional Director, which he addressed to the PNP Chief. In a Memorandum issued on 3 July 2002 by the Directorate for Personnel and Records Management of the PNP Headquarters, Montoya's Petition/Motion was denied for lack of jurisdiction, since a disciplinary action involving demotion or dismissal from service imposed by a PNP regional director may only be appealed to the Regional Appellate Board (RAB).

Montoya next filed on 2 September 2002 an appeal of the 23 June 2000 Decision of the NCR Regional Director before the RAB of the National Capital Region (RAB-NCR), alleging lack of due process considering that he was not even notified of any hearing by the Summary Hearing Officer and was thus deprived of the opportunity to present evidence in his defense. The Summary Hearing Officer in the Summary Dismissal Proceedings against him recommended his dismissal from police service based on his failure to report for the LEEC, without even looking into his side of the controversy.

On 11 December 2002, the RAB-NCR rendered its Decision^[6] granting Montoya's appeal and ordering his reinstatement. Pertinent provisions of the said Decision read:

The Summary Hearing Officer (SHO), P/Supt. Francisco Don Montenegro, conducted the hearing ex-parte on the basis only of the Motion for Reconsideration filed by the [herein petitioner Montoya] in which he categorically stated that on January 22, 1998, when he went to Police Station 2 to have his sick leave form approved, he was informed that his name was already forwarded to NCRPO to undergo LEEC schooling. With that information, the SHO concluded that appellant, PO2 Montoya, should have proceeded to STU, NCRPO to inform his superior about his physical predicament. However, [Montoya] did nothing to have the officers of STU, NCRPO notified of his sickness in order that appropriate actions can be instituted. Sixty-seven days is too long for a period for [Montoya] to allow even one day of reporting to STU, NCRPO to present his Medical Certificate and seek proper action for his ailment. Thus, [Montoya] was ordered dismissed from the Police Service.

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This Board, after careful review and evaluation of the records and arguments/evidence presented by herein [Montoya] finds this appeal meritorious and tenable. Nothing on the records would show that [Montoya] was notified of the summary hearing conducted by the

Summary Hearing Officer nor was he given a chance to explain his side and submit controverting evidence on his behalf. On the other hand, what appeared on the record is the fact that the Summary Hearing Officer, who was tasked to resolve this case, conducted the hearing ex-parte. Thereafter, he recommended for the [Montoya's] dismissal from the police service on the ground that the latter failed to inform his superiors about his physical predicament since [Montoya] did nothing to have the officers of STU, NCRPO notified of his sickness in order that appropriate actions can be instituted. Summary Hearing Officer further concluded that sixty-seven days is too long for a period (sic) for [Montoya] to allow even one day of reporting to STU, NCRPO to present his Medical Certificate and seek proper action for his ailment.

The RAB-NCR decreed in the end:

Wherefore, premises considered, the decision appealed from is hereby reversed and movant-appellant PO2 Ruel Catud Montoya is hereby ordered to be reinstated in the police service without loss of seniority rights and with full payment of his salaries and backwages covering the period effective from the time of his dismissal from the service up to his reinstatement.^[7]

Thereafter, the NCR Regional Director authorized Police Senior Superintendent (P/SSupt.) Rufino Jeffrey L. Manere (Manere) to appeal several RAB-NCR decisions involving different police officers,^[8] including the Decision dated 11 December 2002 on Montoya's case, before the Department of Interior and Local Government (DILG). The NCR Regional Director assailed the RAB-NCR decision reinstating Montoya in the police service on the following grounds:

- a. Failure to file a Notice of Appeal with the NCRPO prior to his appeal to the Appellate Board, as provided by Sec. 2, Rule III, MC # 91-007;
- b. The Board erred to take cognizance of the case despite the fact that the decision of the NCRPO dated 23 June 2000 had already become final and executory.
- c. The Board erred in giving backwages despite the "no work, no pay" policy.

On 8 August 2003, Montoya, together with the other police personnel^[9] reinstated in the service by RAB-NCR (hereinafter collectively referred to as Montoya, *et al.*), filed before the DILG an Urgent Motion to Dismiss and/or Opposition to the Appeal of the NCR Regional Director.

On 10 November 2003, DILG Secretary Jose D. Lina, Jr. issued an Order denying the appeal of the NCR Regional Director.^[10] DILG Secretary Lina noted that the NCR Regional Director received a copy of the RAB-NCR decision on Montoya's case on 10 February 2003, but it only appealed the same to the DILG on 30 April 2003, beyond the 15-day reglementary period for appeals. DILG Secretary Lina also declared that neither Manere nor the NCR Regional Director has personality to appeal the RAB-NCR decision to the DILG. The right to appeal from the decision of the RAB to the

DILG is available only to the active complainant or the respondent who was imposed a penalty of demotion in rank, forced resignation, or dismissal from the service. Manere, representing the NCR Regional Director, is not a party complainant or a respondent aggrieved by the adverse decision, hence, he cannot appeal the said decision. Similarly, there is no specific provision allowing the NCR Regional Director, in his capacity as the judge and/or arbiter of PNP disciplinary cases, to file an appeal to the DILG from the decision of the RAB. Finally, DILG Secretary Lina explained that the filing of an appeal by "either party" under Section 45 of Republic Act No. 6975^[11] covers only demotion and dismissal from the service and never exoneration and suspension. Thus, the appeal of the RAB-NCR decision exonerating Montoya should be dismissed for lack of jurisdiction and for the reason that the said decision had already become final and executory. The dispositive portion of DILG Secretary Lina's decision reads:

WHEREFORE, the instant appeals are hereby denied for lack of merit. The assailed decisions of the Regional Appellate Board - National Capital Region, 4th Division, are hereby affirmed in toto.^[12]

The NCR Regional Director, represented by Manere, appealed the Order dated 10 November 2003 of DILG Secretary Lina to the Civil Service Commission (CSC). The NCR Regional Director asserted its right to appeal citing *Civil Service Commission v. Dacoycoy*.^[13]

On 23 March 2004, the NCR Regional Director issued Special Order No. 611 reinstating Montoya, *et al.*, without prejudice to the pending appeal of the NCR Regional Director before the CSC.

Subsequently, the CSC issued on 24 August 2005 Resolution No. 05-1200 which recognized the right of the PNP disciplining authorities to appeal the decision of the RAB-NCR to the DILG. The CSC set aside the 10 November 2003 Order of DILG Secretary Lina and affirmed the decisions of the NCR Regional Director dismissing Montoya, *et al.*, from police service. According to the CSC, Montoya, in particular, was guilty of laches and abandonment of his position. It also held that the 11 December 2002 Decision of the RAB-NCR on Montoya's case, affirmed by DILG Secretary Lina, was based on mere affidavits which were not substantiated.

The CSC denied the Motion for Reconsideration of Montoya, *et al.*, in Resolution No. 06-1500 dated 23 August 2006 for lack of new evidence or any valid reason that warrants the setting aside or modification of its Resolution No. 05-1200.

Montoya, *et al.*, sought recourse to the Court of Appeals *via* a Petition for *Certiorari* under Rule 43 with Application for Temporary Restraining Order (TRO) and Preliminary Injunction, docketed as CA-G.R. SP No. 96022.

On 9 August 2007, the Court of Appeals promulgated its Decision dismissing CA-G.R. SP No. 96022, since there was no grave abuse of discretion on the part of the CSC in issuing Resolutions No. 05-1200 and No. 06-1500. The dispositive portion of said Decision states:

Wherefore this Court DENIES the instant petition and AFFIRMS Resolution No. 05-1200 dated August 24, 2005 and Resolution No. 06-1500 dated August 23, 2006 of the Civil Service Commission. Accordingly, the Order

dated November 10, 2003 of the DILG Secretary Jose D. Lina, Jr. affirming the nine (9) decisions of the Regional Appellate Board reinstating [Montoya, *et al.*] to the police service is SET ASIDE. The decisions of the NCRPO Regional Director dismissing petitioners- police officers Enrique C. Paulino, Rebecca P. Fernandez, Donato L. Geda, Marlo S. Quiambao, Danilo De Leon Nuqui, Ruel C. Montoya, Cecilia Z. de Leon, Alberto S. Mendoza and Rodolfo C. de Leon are hereby AFFIRMED.^[14]

Aggrieved, Montoya filed his own Motion for Reconsideration in CA-G.R. SP No. 96022, but it was denied by the Court of Appeals in its Resolution dated 18 October 2007.

Hence, the present Petition^[15] in which Montoya raises the following issues:

- I. WHETHER OR NOT RESPONDENT MANERE FAILED TO EXHAUST ADMINISTRATIVE REMEDIES.
- II. WHETHER OR NOT MANERE HAS THE LEGAL PERSONALITY TO APPEAL THE DECISION EXONERATING THE PETITIONER.
- III. WHETHER OR NOT THE RIGHT TO DUE PROCESS OF PETITIONER WAS VIOLATED.
- IV. WHETHER OR NOT PETITIONER DELAYED IN APPEALING THE DECISION SUMMARILY DISMISSING HIM.
- V. WHETHER OR NOT PETITIONER DESERVED TO BE DISMISSED FROM SERVICE.

The Court finds merit in the Petition at bar.

Though procedural rules in administrative proceedings are less stringent and often applied more liberally, administrative proceedings are not exempt from basic and fundamental procedural principles, such as the right to due process in investigations and hearings. The right to substantive and procedural due process is applicable to administrative proceedings.^[16]

Well-settled is the rule that the essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.^[17] Unarguably, this rule, as it is stated, strips down administrative due process to its most fundamental nature and sufficiently justifies freeing administrative proceedings from the rigidity of procedural requirements. In particular, however, due process in administrative proceedings has also been recognized to include the following: (1) the right to actual or constructive notice of the institution of proceedings which may affect a respondent's legal rights; (2) a real opportunity to be heard personally or with the assistance of counsel, to present witnesses and evidence in one's favor, and to defend one's rights; (3) a tribunal vested with competent jurisdiction and so constituted as to afford a person charged administratively a reasonable guarantee of honesty as well as impartiality; and (4) a finding by said tribunal which is supported by substantial evidence submitted for consideration during the hearing or contained in the records or made known to the parties affected.^[18]