

## EN BANC

[ G.R. No. 156039, August 14, 2003 ]

**HON. KARINA CONSTANTINO-DAVID, HON. JOSE F. ERESTAIN, JR., AND HON. WALDEMAR V. VALMORES, IN THEIR CAPACITIES AS CHAIRMAN AND COMMISSIONERS, RESPECTIVELY, OF THE CIVIL SERVICE COMMISSION, PETITIONERS, VS. ZENAIDA D. PANGANDAMAN-GANIA, RESPONDENT.**

### DECISION

**BELLOSILLO, J.:**

"A system of procedure is perverted from its proper function when it multiplies impediments to justice without the warrant of clear necessity," so says Cardozo - an observation especially apt in the instant case involving the payment of back wages and other benefits resulting from the illegal dismissal of an employee due to improper personnel and non-disciplinary action. The disquieting procedural steps risked by respondent before the Court of Appeals, the tendency of the appellate court to overlook most of them, the doggedness of the Solicitor General to venture others, when neither the court *a quo* nor the parties to the case appear perturbed that elementary rules of procedure were either indulgently brushed aside or subtly exploited one after the other, do not leave us ensnared in borderline technical maneuvers, or so it is said, being too impotent to address the pith of this controversy.

Respondent Zenaida D. Pangandaman-Gania is a Director II and Manila Information and Liaisoning Officer of the Mindanao State University (MSU). She has been holding this position after the confirmation of her appointment by the MSU Board of Regents on 1 June 1995.

On 2 October 1998 respondent received a copy of Special Order No. 477-P dated 28 September 1998 designating a certain Agnes Mangondato as Acting Director in her place in view of the alleged expiration of her term and was no longer allowed to report for work. She verified the status of her appointment and found out that her appointment was not submitted to the Civil Service Commission for attestation.

Respondent immediately brought the matter to the CSC for a ruling on the validity of the termination of her employment.<sup>[1]</sup> In *Resolution No. 00-1265 dated 24 May 2000* the CSC upheld her dismissal for lack of attestation and prolonged absence without official leave from the time she was removed from her post in September 1998 as a result of Special Order No. 477-P.

Respondent moved for reconsideration. In *Resolution No. 01-0558 dated 8 March 2001* the CSC found merit in her motion, declared her removal from office as illegal, exonerated her from the charge of being on absence without official leave and ordered her reinstatement as Director II and Manila Information and Liaisoning

Officer of MSU but disallowed the payment of back salaries for the period she was not working as a result of the illegal dismissal. The CSC explained the non-payment of her back wages -

Be that as it may, the incumbency of Dr. Gania is governed by the principle of "quantum meruit" (as you work so shall you earn). In other words, her entitlement to compensation depends on her actual performance of work. Short of approval by the Commission, the appointment while already effective, by itself is not a basis for payment of salary but the assumption of duties of her office x x x x Such being the case, Dr. Gania is not entitled to compensation for the period that she was not reporting to work.<sup>[2]</sup>

MSU moved for reconsideration of *CSC Resolution No. 01-0558 dated 8 March 2001*, while respondent moved for its early execution. In *Resolution No. 01-1225 dated 19 July 2001*, the CSC denied MSU's motion for reconsideration and ordered its President to allow respondent to assume and exercise the functions of Manila Information and Liaisoning Officer.

MSU appealed from the denial of its motion for reconsideration under Rule 43 of the *1997 Rules of Civil Procedure*, docketed as CA-G.R. No. SP-66188, to the Court of Appeals, but the appellate court did not issue any restraining order or injunction to prevent the execution of the resolution on appeal.

Respondent did not seek a review of any of the resolutions of the CSC including the order denying back salaries and other benefits for the period she was out of work. She instead pursued her prayer for reinstatement but MSU refused to employ her back. Hence, she was compelled to file a second motion for the execution of *CSC Resolution No. 01-0558 dated 8 March 2001*, citing Sec. 82 of the *Revised Uniform Rules on Administrative Cases in the Civil Service*, which states that "[t]he filing and pendency of petition for review with the Court of Appeals or certiorari with the Supreme Court shall not stop the execution of the final decision of the Commission unless the Court issues a restraining order or an injunction."

In *Resolution No. 01-1616 dated 4 October 2001* the CSC granted respondent's motion and held that "*CSC Resolution No. 01-0558 dated 8 March 2001* has attained finality and must be immediately implemented," as it again ordered the MSU President to reinstate respondent.

On 8 October 2001 respondent for the first time questioned the portion of *CSC Resolution No. 01-0558 dated 8 March 2001* prohibiting the payment of back wages and other benefits to her for the period that her employment was terminated, and moved for the modification of the resolution by granting her the relief prayed for.

On 29 October 2001 the Court of Appeals dismissed MSU's petition for review on the ground that the certificate of non-forum shopping was not personally signed by pertinent officers of the university but by its counsel of record.<sup>[3]</sup> MSU moved for reconsideration of the dismissal.

On 12 December 2001, there being still no action on her request to be paid her back salaries and other benefits, respondent moved for an immediate ruling thereon.

On 21 February 2002 the Court of Appeals denied MSU's motion for reconsideration of the dismissal of its petition for review for lack of merit.

On 28 February 2002 the CSC in *Resolution No. 02-0321* denied respondent's motion -

Since nowhere in the records does it show that [respondent Gania] actually assumed and performed the duties of her position, it logically follows that there can be no basis for the grant of back salaries in her favor.<sup>[4]</sup>

Without the aid of an attorney, respondent appealed *CSC Resolution No. 02-0321 dated 28 February 2002* to the Court of Appeals under Rule 43 of the *1997 Rules of Civil Procedure*, docketed as CA-G.R. SP No. 69668. In her petition for review, she did not mention that she did not seek a review of *CSC Resolution No. 01-0558 dated 8 March 2001* which was the real object of her appeal.<sup>[5]</sup> In addition, she impleaded only the petitioners herein, Chairperson Karina Constantino-David and Commissioners Jose F. Erestain Jr. and Waldemar V. Valmores of the CSC, but did not name as party-respondent the Mindanao State University or any of its officers.

In its *Comment* before the Court of Appeals, the CSC through the Office of the Solicitor General (OSG) rebuffed respondent's claim for back wages since she allegedly failed to actually assume the position of Director II and Manila Information and Liaisoning Officer of MSU. But the CSC did not assail the procedural infirmities of respondent's petition and appeared contented to refute just the substantial arguments thereof.

On 28 October 2002 the Court of Appeals partially found merit in respondent's petition for review.<sup>[6]</sup> Apparently failing to note that respondent did not appeal from the denial of her claim for payment of back salaries in *CSC Resolution No. 01-0558 dated 8 March 2001*, which she found objectionable, the Court of Appeals concluded that -

x x x petitioner had assumed and had been exercising the functions [at MSU] as early as June 1995, after the MSU Board of Regents approved her permanent appointment which was issued earlier x x x on April 10, 1995. It was only in September 1998, when she was terminated from service on the alleged ground of expiration of term, that she was prevented from performing the functions of her position.<sup>[7]</sup>

The Court of Appeals ruled that back wages should be paid to respondent from the time of her illegal dismissal until she was ordered reinstated by the CSC as Director II of MSU on 8 March 2001, but excluded the period after the CSC had ordered MSU to admit respondent back to work since the damages she suffered for that period were chargeable in the proper forum against the MSU President who in bad faith refused to abide by the relevant CSC resolutions.

On 3 January 2003 the OSG filed the instant petition for review under Rule 45, *1997 Rules of Civil Procedure*, allegedly in behalf of the petitioners named herein, and also signed for them the verification and certification of non-forum shopping. The OSG asserted as grounds for review the principle recognizing finality to factual findings of quasi-judicial agencies as well as its puzzling statement that "[w]hile the

dismissal of herein respondent was declared illegal, she was, however, not exonerated from the charges. Hence, respondent is not entitled to back wages."<sup>[8]</sup> Once again the OSG did not call attention to procedural defects in the petition of respondent before the Court of Appeals.

Respondent filed in her own behalf a *Comment* claiming that the CSC cannot be a party-petitioner in a case where its decision is the subject of review, citing *Civil Service Commission v. Court of Appeals*.<sup>[9]</sup> As to whether respondent actually assumed the duties of Director II, she referred not only to the finding of the Court of Appeals that she had assumed office and worked for MSU as early as June 1995 but also to the voluminous records of MSU showing that she reported for work until her illegal dismissal in September 1998.<sup>[10]</sup> She also manifested that she was reinstated to her job on 18 September 2002 while the proceedings before the Court of Appeals were ongoing although she was not paid her salary and other benefits. In another *Manifestation* before this Court, she affirmed that her salary as well as RATA and other benefits for the month of September 2002 were paid on 23 April 2003.

We deny the instant petition for review. It is true that respondent had lost the right to ask for the modification of *CSC Resolution No. 01-0558 dated 8 March 2001* and to demand compensation for her back salaries and other benefits. She did not move for the reconsideration of this resolution within fifteen (15) days from receipt thereof<sup>[11]</sup> nor did she file a petition for its review within the same period under Rule 43 of the *1997 Rules of Civil Procedure*.<sup>[12]</sup> To be sure, both the CSC and respondent herself admitted the finality of the *Resolution* and acted upon it when she was granted an order for its execution.

Meanwhile, MSU filed its petition for review with the Court of Appeals (CA-G.R. No. SP-66188) assailing *CSC Resolution No. 01-0558 dated 8 March 2001* and *CSC Resolution No. 01-1225 dated 19 July 2001* denying MSU's motion for reconsideration.

Ordinarily, under the foregoing circumstances, neither the Civil Service Commission nor the Court of Appeals has jurisdiction to direct the substantial amendment of CSC's relevant resolutions upon the behest of respondent.<sup>[13]</sup> The principle governing ordinary appeal from the Regional Trial Court to the Court of Appeals applies suppletorily<sup>[14]</sup> *mutatis mutandis* -

x x x where all the parties have either thus perfected their appeals by filing their notices of appeal in due time and the period to file such notice of appeal has lapsed for those who did not do so, then the trial court loses jurisdiction over the *case* as of the filing of the last notice of appeal or the expiration of the period to do so for all the parties.<sup>[15]</sup>

This rule is also articulated in *Associated Bank v. Gonong*<sup>[16]</sup> where we held that only after all the parties' respective periods to appeal shall have lapsed that the court loses its jurisdiction over the case. What is left as residual jurisdiction of the Civil Service Commission pertains only to matters for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal or the immediate execution of its resolutions under the *Revised Uniform Rules on Administrative Cases in the Civil Service*. This is to ensure the orderly

disposition of the case at both the levels of the CSC and the appellate court.<sup>[17]</sup>

Nonetheless, we cannot inflexibly dwell on the defect of a belated appeal and coldly thwart a review of the instant case. For it cannot be denied that even after acknowledging the finality of *Resolution No. 01-0558 dated 8 March 2001*, the CSC still entertained the twin motions of respondent on 8 October 2001 and 12 December 2001 to modify the same resolution and insert therein an order for the payment of back wages. The CSC in fact promulgated *Resolution No. 02-0321 dated 28 February 2002* denying respondent's importunate motions for the reason that she allegedly did not report for work but not because they were already time-barred.

No doubt, the Civil Service Commission was in the legitimate exercise of its mandate under Sec. 3, Rule I, of the *Revised Uniform Rules on Administrative Cases in the Civil Service* that "[a]dministrative investigations shall be conducted without necessarily adhering strictly to the technical rules of procedure and evidence applicable to judicial proceedings." This authority is consistent with its powers and functions to "[p]rescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws" being the central personnel agency of the Government.<sup>[18]</sup>

Furthermore, there are special circumstances in accordance with the tenets of justice and fair play that warrant such liberal attitude on the part of the CSC and a compassionate like-minded discernment by this Court.<sup>[19]</sup> To begin with, respondent was consistently denied reinstatement by the responsible officers of MSU and vehemently barred from resuming her previous position. The first order for her return to work was issued on 8 March 2001 which was followed by repeated personal appeals for the immediate execution of the CSC resolution.<sup>[20]</sup> Thereafter, when respondent was still forced out of work, the CSC issued its second and third orders on 19 July 2001 and 4 October 2001, respectively, for the President of MSU to restore her to the item from which she was illegally dismissed. As these private requests and official directives were cruelly rejected by her employer and the period of her unemployment was unduly prolonged, respondent had no choice and was compelled to ask for back salaries and other benefits to offset the callous repudiation of what was due her.

To prevent respondent from claiming back wages would leave incomplete the redress of the illegal dismissal that had been done to her and amount to endorsing the wrongful refusal of her employer or whoever was accountable to reinstate her. A too-rigid application of the pertinent provisions of the *Revised Uniform Rules on Administrative Cases in the Civil Service* as well as the *Rules of Court* will not be given premium where it would obstruct rather than serve the broader interests of justice in the light of the prevailing circumstances in the case under consideration.

As commented in *Obut v. Court of Appeals*,<sup>[21]</sup> "we cannot look with favor on a course of action which would place the administration of justice in a straightjacket for then the result would be a poor kind of justice, if there would be justice at all. Verily, judicial orders x x x are issued to be obeyed, nonetheless a non-compliance is to be dealt with as the circumstances attending the case may warrant. What should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for