

SECOND DIVISION

[G.R. NO. 134278, August 07, 2002]

PFC RODOLFO RODRIGUEZ, PETITIONER, VS. THE HON. COURT OF APPEALS, THE DIRECTOR-GENERAL OF THE PHILIPPINE NATIONAL POLICE (FORMERLY DIRECTOR GENERAL, INTEGRATED NATIONAL POLICE), NAPOLCOM, AND ITS COMMISSIONERS, AND THE HON. SECRETARY OF THE DILG IN HIS CAPACITY AS THE NAPOLCOM CHAIRMAN, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

This petition for review, under Rule 45 of the Rules of Court, seeks the reversal of the decision of the Court of Appeals in CA-GR No. SP 40504. Promulgated on October 22, 1997, said decision dismissed herein petitioner's special civil action for certiorari and mandamus for lack of merit. Petitioner also assails the appellate court's resolution of May 27, 1998, denying his motion for reconsideration.

The facts of this case, as culled from the records, are as follows:

On May 24, 1990, the Philippine Constabulary-Integrated National Police (PC-INP), now Philippine National Police or PNP, launched OPLAN AJAX to minimize, if not entirely eliminate, the extortion activities of traffic policemen at the vicinity of Guadalupe Bridge, Makati, Metro Manila.

On July 5, 1990, at about three o'clock in the afternoon, two operatives of OPLAN AJAX, namely, 2LT Federico Bulanday, PC and Intelligence Agent Angelito C. Leoncio, both members of the Counter-Intelligence Group (CIG) stationed at Camp Crame, Quezon City, were on board a car with Plate No. NDK-238. They were traveling along J.P. Rizal Street, Makati, when they were flagged down by three policemen in uniform. These were petitioner PFC Rodolfo Rodriguez, PFC Arsenio Silungan, and PFC Rolando Pilandi. All were members of the Metropolitan Traffic Command assigned with the Makati Police Station.

Upon pulling up, Bulanday and Leoncio were informed by the three policemen that they had violated traffic regulations. The three policemen demanded money. Bulanday and Leoncio handed over cash amounting to one hundred pesos consisting of two P20 bills, one P10 bill, and one P50 bill. The bills were marked with ultraviolet fluorescent powder.

On seeing what happened, other CIG operatives who were behind the vehicle of Bulanday and Leoncio immediately swooped down on the three policemen. However, they were able to arrest only petitioner and PFC Silungan. PFC Pilandi was able to escape by commandeering a private vehicle at gunpoint.

Petitioner Rodriguez and PFC Silungan were then brought to the PC Crime Laboratory at Camp Crame. A physical examination was conducted on their persons.

Both were found positive for the presence of ultraviolet fluorescent powder. The P50 bill, which formed part of the entrapment money, was recovered from PFC Silungan while the two P20 bills were retrieved from petitioner.

An administrative case for grave misconduct was subsequently filed against Rodriguez, Silungan, and Pilandi, who was at large, with the National Police Commission or NAPOLCOM. Docketed as Adm. Case No. 90-80, the case was assigned to Atty. Narzal B. Mallares as hearing officer. A second administrative case was filed with NAPOLCOM against the three erring police officers for their summary dismissal. A charge for robbery/extortion was filed with Headquarters, PC-INP. It was docketed as Adm. Case No. 01-91 and assigned to P/Major Efren Santos as Summary Hearing Officer.

On February 7, 1991, then PNP Chief Major General Cesar P. Nazareno issued Special Order No. 35 summarily dismissing Rodriguez, Silungan, and Pilandi from the police force.

On March 27, 1991, petitioner appealed the summary dismissal to the NAPOLCOM National Appellate Board. He alleged that the summary dismissal proceedings violated his right to due process. He claimed that only a preliminary inquiry had been conducted by the NAPOLCOM hearing officer and that he had not been afforded a chance to present his side.

In the meantime, the case against petitioner and his companions for robbery/extortion was filed by PC-INP with the public prosecutor's office of Makati. The investigating prosecutor, however, subsequently recommended the dismissal of the complaint on the ground that "[t]he scenarios of the arresting officers left so much to be desired."^[1]

On November 5, 1992, the NAPOLCOM National Appellate Board dismissed the appeal of petitioner in the summary dismissal case. On March 29, 1993, petitioner filed a motion for reconsideration, but the NAPOLCOM denied it on March 11, 1996.

Aggrieved, petitioner elevated his case to the Court of Appeals by way of certiorari and mandamus. Petitioner contended that the act of the PNP Director General in summarily dismissing him from the service, while Adm. Case No. 90-80 involving the same incident complained of was yet pending before the NAPOLCOM, was clearly with grave abuse of discretion and in excess of jurisdiction.

On October 22, 1997, the appellate court denied the petition for lack of merit. Petitioner filed a motion for reconsideration of the appellate court's decision, but it was denied on May 27, 1998.

On July 13, 1998, petitioner filed the instant petition for review under Rule 45, raising as sole issue:

WHETHER OR NOT, THE NOMINAL RESPONDENT COURT OF APPEALS CORRECTLY DISMISSED THE PETITION FOR CERTIORARI AND MANDAMUS UNDER THE PREVAILING FACTS AND CIRCUMSTANCES ABOVE-CITED AND BASED UPON THE THEORY OF GRAVE ABUSE OF DISCRETION AND LACK ON (SIC) EXCESS OF JURISDICTION AT POINT WHEN THERE WAS NO APPEAL OR IF IT WAS STILL AVAILABLE, THE SAME WAS NOT ANYMORE ADEQUATE AND SPEEDY?^[2]

Before us, Rodriguez contends that the Court of Appeals committed an error of law when it found that petitioner's right to due process, instead of having been breached, was observed to the utmost.^[3] More specifically, petitioner contends that the Court of Appeals erred when it observed that:

Since the petitioner admittedly received on April 15, 1996, a copy of the Resolution denying his motion for the reconsideration of the adverse Decision of the NAPOLCOM rendered by Secretary Alunan and Commissioners Guillermo Enriquez, Jr. and Federico S. Commandante, his remedy was to appeal to the Civil Service Commission. We cannot thus entertain his present original action for certiorari and mandamus for these remedies cannot be resorted to as a substitute for appeal, especially so in this case where the petitioner had wasted two (2) chances of appealing, first, to the CSC; and then, to this Court.

But even assuming that instant recourse is proper, still we are not prepared to hold that the petitioner was denied his right to due process by the respondents. Due process was designed to afford an opportunity to be heard, not that an actual hearing should always and indispensably be heard. As applied to administrative proceedings, the essence of due process is an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.

x x x

A reading, however, of the decision denying his appeal from the summary dismissal order of PNP Chief Nazareno demonstrates that the petitioner fully ventilated his defenses in his appeal...(Citations omitted.)^[4]

x x x

The only issue for determination is whether or not the Court of Appeals erred when it dismissed the petition for certiorari and mandamus filed by petitioner PFC Rodolfo Rodriguez.

In *Republic v. Asuncion*, 231 SCRA 211 (1994), we held that "the civilian character of the PNP is unqualified, unconditional, and all embracing."^[5] Members of the PNP are deemed civilian personnel of the government.^[6] Police officers and personnel are part of the civil service. This is expressly recognized by R.A. No. 6975^[7] when it provided for the applicability of civil service laws to all its personnel in Section 91 thereof, which states:

SEC. 91. *Application of Civil Service Laws.* – The Civil Service Law and its implementing rules and regulations shall apply to all personnel of the Department.

The Civil Service Law referred to in Section 91 of R.A. No. 6975 is Subtitle A, Title I, Book V of the Administrative Code of 1987.^[8] The procedure for dismissal is outlined in Section 47 (2) of this subtitle. Thus:

(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and