

## SECOND DIVISION

[ G.R. No. 139131, September 27, 2002 ]

**JESUS R. GONZALES, PETITIONER, VS. CIVIL SERVICE COMMISSION, AND PHILIPPINE CHILDREN'S MEDICAL CENTER (PCMC), RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

Petitioner seeks to annul and set aside the Resolution<sup>[1]</sup> dated January 14, 1999 of the Court of Appeals (CA) in CA-G.R. SP No. UDK-2819, which dismissed petitioner's appeal via a petition for review,<sup>[2]</sup> for his failure to comply with Section 6 (c), Rule 43 of the Rules of Court, and its Resolution<sup>[3]</sup> dated February 16, 1999, denying petitioner's motion for reconsideration. Subject of said appeal before the CA were Resolutions Nos. 98-2359<sup>[4]</sup> and 98-3021<sup>[5]</sup> of the Civil Service Commission, which upheld the dismissal of petitioner from respondent Philippine Children's Medical Center (PCMC).

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

Petitioner Jesus R. Gonzales was one of the two Utility Workers II assigned at the Pharmacy Section of respondent Philippine Children's Medical Center (PCMC), a government-owned and controlled corporation created under P.D. No. 1631, as amended. At PCMC, petitioner served the patients and the public from 6:00 A.M. to 10:00 P.M., seven days a week.

On March 2, 1998, petitioner started absenting himself without an approved leave (AWOL) and without explaining the reason for his absence to his superiors.

In view of the exigency of petitioner's functions, Ms. Jara Corazon O. Ehera, Human Resources Management Officer III, wrote a letter-notice dated March 5, 1998 to petitioner directing him to report for work within three (3) days from receipt of said notice, otherwise, he would be dropped from the rolls.

During his absence, petitioner was seen on several occasions within the premises of PCMC, particularly in the Budget Office, Billing and Cashier, and Personnel Clinic. He allegedly visited the clinic without consulting any medical problem and when Dr. Galero once made a surprise visit, he was not found in his house.<sup>[6]</sup>

On March 16, 1998, Dr. Corazon D. Rivera, officer-in-charge of the Pharmacy Section, reported petitioner's irresponsibility and lack of concern for his work to Dr. Lillian V. Lee, Executive Director of PCMC, recommending that petitioner be dropped from the rolls.

Despite the written letter-notice sent to him, petitioner failed to report for work thus constraining PCMC to drop him from the rolls, effective March 20, 1998.<sup>[7]</sup>

Aggrieved, petitioner appealed to the Civil Service Commission (CSC). In Resolution No. 98-2359 dated September 8, 1998, the CSC upheld the action taken by PCMC, to wit:

WHEREFORE, the appeal of Jesus R. Gonzales is hereby dismissed. Accordingly, the action of the PCMC Executive Director, dropping him from the rolls, is upheld.<sup>[8]</sup>

The decision, however, stated that considering that the separation of petitioner was not disciplinary in character, he may be re-employed in the same agency at the discretion of the appointing authority.<sup>[9]</sup>

Petitioner moved for reconsideration by the CSC of Resolution 98-2359, but it was denied.

When he filed a petition for review in the CA, the petition was denied for failure to comply with Section 6 (c), Rule 43 of the Revised Rules of Court,<sup>[10]</sup> particularly for failure to attach certified true copies of material portions of the records and supporting papers.

The CA Resolution<sup>[11]</sup> dated January 14, 1999, concluded:

WHEREFORE, for being formally deficient, the instant petition for review is hereby DISMISSED.

In a Motion for Reconsideration and Compliance,<sup>[12]</sup> petitioner attached the certified true copies of the required papers. But the CA denied the motion in a Resolution<sup>[13]</sup> dated February 16, 1999.

Hence, this petition raising the following issues for resolution:

1. Whether or not the Court of Appeals committed grave error in dismissing the appeal of herein petitioner based on pure technicality.
2. Whether or not there is factual and legal basis for respondent PCMC to drop petitioner from the rolls for his alleged absences without leave.<sup>[14]</sup>

On the first issue, petitioner argues that the dismissal of the petition by CA on mere technicality is unwarranted and unjustified since pertinent jurisprudence abounds declaring in no uncertain terms that dismissals of appeals on purely technical grounds is frowned upon where the policy of the Court is to encourage hearings of appeals based on merits.<sup>[15]</sup>

The same position is taken by the Office of the Solicitor General in its Manifestation in Lieu of Comment<sup>[16]</sup> filed before this Court. But respondent PCMC asserts that the dismissal by the CA of the petition for review is in keeping with Section 7<sup>[17]</sup> in relation to Section 6 of Rule 43 of the Revised Rules of Court.<sup>[18]</sup>

In *Cadayona vs. Court of Appeals*,<sup>[19]</sup> however, we already held that Section 6, Rule 43 of the Revised Rules of Court is not to be construed as imposing the requirement that all supporting papers accompanying the petition should be certified true copies. We compared this provision with its counterpart provision in Rule 42, on petitions for review from the RTC to the CA, and noted that under the latter, only the judgments or final orders of the lower court need to be certified true copies or duplicate

originals. In numerous resolutions issued by this Court we emphasized that in an appeal via a petition for certiorari under Rule 45 and in an original civil action for certiorari under Rule 65 in relation to Rules 46 and 56, what is required to be a certified true copy is the copy of the questioned judgment, final order or resolution.

[20] We see no reason why a stricter requirement should be made for petitions under Rule 43, which governs appeals from the Court of Tax Appeals and quasi-judicial agencies to the CA. This could not have been intended by the framers of the rules. A contrary ruling would be too harsh and would not promote the underlying objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[21]

Further, we note that petitioner had attached certified true copies of the documents supporting his Motion for Reconsideration and Compliance.[22] As previously held, submission of a required document with the Motion for Reconsideration constitutes substantial compliance with Section 3, Rule 46.[23]

On the second issue, petitioner argues that he was denied due process[24] when he was dropped from the rolls. He avers that he received PCMC's letter dated March 5, 1998 only on March 20, 1998 and thus, had until March 23, 1998 within which to comply with the directive;[25] that in fact, he did report for work on March 21, 1998, but was barred by security personnel from entering the company because his name had already been dropped from the rolls effective March 20, 1998. He contends that his non-compliance with the return to work directive does not constitute abandonment of work as no person in his right mind would abandon his job to his own detriment.[26]

For analogous reasons, the Office of the Solicitor General avers that petitioner was denied due process. The OSG states that he was summarily dismissed without affording him a hearing and the opportunity to introduce witnesses and relevant evidence in his favor.[27] The OSG also opines that the penalty of dismissal was too severe.[28]

In its reply, respondent PCMC insists that the dismissal of petitioner is valid and legal, considering that petitioner's actuations were clearly irresponsible. They showed lack of concern for his work and the smooth operation of PCMC.[29]

Further, PCMC contends that petitioner was given ample opportunity to explain his side and to submit evidence and to explain his absence.[30] PCMC points out that they sent a letter-notice dated March 5, 1998, to petitioner and he should have taken it upon himself to report to work, even without any prompting from PCMC, considering the significance of his work.[31] Besides, PCMC claims, petitioner showed the clear intent to sever his employer-employee relationship with PCMC. Finally, PCMC avers that factual findings of the CSC on this matter are entitled to great weight and must be accorded respect and finality.[32]

To avoid circuitous procedure, we shall now consider the merits of the case. This Court is not a trier of facts, and its function is limited to reviewing errors of law that might have been committed by the lower court.[33] In this case, we find no exceptional circumstance and we find no cogent reason to set aside the factual findings of the CSC in sustaining the action of respondent in the dropping of