

## EN BANC

[ G.R. No. 132860, April 03, 2001 ]

**UNIVERSITY OF THE PHILIPPINES AND ALFREDO DE TORRES,  
PETITIONERS, VS. CIVIL SERVICE COMMISSION, RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

As part of its academic freedom, the University of the Philippines has the prerogative to determine who may teach its students. The Civil Service Commission has no authority to force it to dismiss a member of its faculty even in the guise of enforcing Civil Service Rules.

#### The Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, seeking to set aside the October 31, 1997 Decision<sup>[1]</sup> of the Court of Appeals (CA)<sup>[2]</sup> in CA-GR SP No. 40128. The CA upheld Resolution Nos. 95-3045<sup>[3]</sup> and 96-1041<sup>[4]</sup> issued by the Civil Service Commission (CSC) on May 5, 1995 and February 15, 1996, respectively. In these Resolutions, the CSC held that Petitioner "Alfredo De Torres is considered to have been dropped from the service as of September 1, 1989. Hence, his re-employment requires the issuance of an appointment subject to the requirements of the Civil Service Law and Rules."

De Torres' Motion for Reconsideration of the CA Decision was denied in the February 25, 1998 Resolution of the Court of Appeals.<sup>[5]</sup>

#### The Facts

The undisputed factual antecedents are summarized by the Court of Appeals thus:

"Dr. Alfredo B. De Torres is an Associate Professor of the University of the Philippines in Los Baños (UPLB) who went on a vacation leave of absence without pay from September 1, 1986 to August 30, 1989. During this period, he served as the Philippine Government's official representative to the Centre on Integrated Rural Development for Asia and [the] Pacific (CIRDAP).

"When the term of his leave of absence was about to expire, CIRDAP requested the UPLB for an extension of said leave of absence for another year, but was denied by Dr. Eulogio Castillo, the then Director of the Agricultural Credit Corporation, Inc. (ACCI) of UPLB. In the same letter, Dr. Castillo advised Dr. De Torres to report for duty at UPLB not later than September 15, 1989; while the then UPLB Chancellor Raul P. de Guzman apprised him on the rules of the Civil Service on leaves and warned of

the possibility of being considered on Absence Without Official Leave (AWOL) if he failed to return and report for duty as directed.

"On August 27, 198<sup>[9]</sup>, Dr. De Torres wrote UPLB that he had `no alternative but x x x to pursue the matter in continuing his commitment to CIRDAP.' In response thereto, Chancellor de Guzman warned De Torres, in a Letter dated November 20, 1989, that in case of the latter's failure to report `within 30 days from today,' UPLB would be forced to drop him from the rolls of personnel. Despite the warning, Dr. De Torres did not report to work.

"On January 3, 1994 or after almost five years of absence without leave, Dr. De Torres wrote the incumbent Chancellor Ruben L. Villareal that he was reporting back to duty at ACCI-UPLB effective January 3, 1994 x x x. However, Chancellor Villareal notified Dr. De Torres that `when an employee reports back for duty, he should have been from an approved leave ...' Likewise, Director Leodegacio M. Ilag, of ACCI-UPLB, in a Letter dated February 10, 1994, informed De Torres that in the absence of any approved application for leave of absence, he [was] considered to be on AWOL. Thus, he was advised to re-apply with UPLB.

"On June 30, 1994, Dr. De Torres wrote Chancellor Villareal seeking reconsideration [of] the two aforementioned decisions x x x. On July 4, 1994, Chancellor Villareal *reversed* his earlier stand and notified De Torres that since records at UPLB do not show that he ha[d] been officially dropped from the rolls he may report for duty effective January 3, 1994 x x x.

"Mesdames Juanita Baskinas and Winifreda Medina, members of Academic Personnel Committee, ACCI-UPLB, requested the Civil Service Commission regarding the employment status of Dr. De Torres x x x.

"On May 5, 1995, the Commission issued CSC Resolution No. 95-3045 x x x, the dispositive portion of which reads:

`WHEREFORE, the Commission hereby rules that Dr. De Torres is considered to have been dropped from the service as of September 1, 1989. Hence, his re-employment requires the issuance of appointment subject to the requirements of Civil Service Law and Rules.'

"On June 9, 1995, Dr. De Torres and the University of the Philippines at Los Baños (UPLB) filed separate requests for reconsideration of aforesaid CSC Resolution No. 95-3045 dated May 5, 1995. In its CSC Resolution No. 96-1041 x x x, the commission denied the motion for reconsideration, further stating that CSC Resolution No. 95-3045 [stood] and that since separation from the service [was] non-disciplinary in nature, the appointing authority may appoint Dr. De Torres to any vacant position pursuant to existing civil service law and rules."<sup>[6]</sup>

The CSC rationalized its ruling in this manner:

"It could be gleaned from the foregoing circumstances that De Torres was already on AWOL beginning September 1, 1989 since his request for extension of leave of absence for one year was denied by then Chancellor De Guzman. It is a fact that De Torres' absence from work was not duly authorized by UPLB. Despite the advice of Chancellor De Guzman to him that he should report for duty on or before September 5, 1989, De Torres failed to do so. Thus, his failure to assume duty as ordered caused his automatic separation from the service."

### **The Ruling of the CA**

From the unfavorable Resolutions of the CSC, petitioners sought recourse before the Court of Appeals. But, finding "no grave abuse of discretion amounting to lack or x x excess of jurisdiction on the part of the respondent commission in the issuance of the questioned Resolutions," the appellate court dismissed the Petition for lack of merit. Petitioners' Motion for Reconsideration was denied in the CA Resolution dated February 25, 1998. Thus, this Petition for Review.<sup>[7]</sup>

#### Issues

Petitioners submit the following questions of law for the Court's consideration:<sup>[8]</sup>

"I

Whether or not a new appointment is still necessary for Dr. de Torres to resume his post at the UNIVERSITY despite having remained continuously with the Civil Service, not having been dropped from the rolls of the University, and after returning to fulfill his service contract as a government scholar.

"II

Whether or not the issuance by the COMMISSION of Resolution Nos. 95-3045 and 961041, was in excess of its authority.

"III

Whether or not the COMMISSION violated the Subido-Romulo Agreement which is still in force and effect.

"IV

Whether or not the express repeal of the old law had the effect of doing away with the policy of automatic dropping from the government service in favor of notice before dropping.

"V

Whether or not Section 33 of Rule XVI is *ultra vires* as it does not relate or is not in any way connected with any specific provision of R.A. No. 2260.

Whether or not Resolution No. 95-3045 violated Dr. de Torres' constitutional right to due process."

In the main, the issue is the validity of Dr. Alfredo de Torres' automatic separation from the civil service due to his prolonged absence without official leave.

### **The Court's Ruling**

The Petition is meritorious.

### **Main Issue:** **Validity of Automatic Separation** **from the Civil Service**

In brief, petitioners argue that (1) the issuance of a new appointment in favor of Petitioner De Torres is not needed, because he was not formally dropped from the rolls of the University of the Philippines; (2) the assailed CSC Resolutions were issued in excess of authority, because the CSC had violated the Subido-Romulo Agreement and disregarded the University's academic freedom, which includes the right to determine who may teach and who may be dropped from the service; (3) Section 33, Rule XVI of the Revised Civil Service Rules -- based on which respondent justified Petitioner De Torres' *automatic* separation from the service -- has been repealed and superseded by PD 807, as well as EO 292 (Administrative Code of 1987) which decrees *prior notice* before actual dropping; (4) even assuming that the said provision was not repealed, the issuance of the Rule was *ultra vires* because it was not related to or connected with to any specific provision of the mother law, RA 2260; and (5) the assailed CSC Resolutions violated petitioner's right to due process, because he had not been given prior notice of his actual separation.

On the other hand, respondent, through the solicitor general, contends that (1) "[i]t is of no legal moment that petitioner De Torres' name is still listed in the rolls of UPLB faculty members since his mandatory separation from the government service was *ipso jure* upon his failure to report for duty within the period prescribed by his superiors"; (2) the new Civil Service Rules did not repeal but complement Section 33, Rule XVI of the Revised Civil Service Rules, with the additional provision on notice of actual dropping; (3) Section 33 was a valid exercise by the CSC of its rule-making power to discipline erring employees of the civil service; and (4) sufficiently constituting due notice of his separation from the service were the denial of Petitioner De Torres' request for an extension of his leave of absence, coupled with the advice for him to report for work and the UPLB Chancellor's subsequent letter informing him that in case he failed to report within thirty (30) days, he would be dropped from the rolls of its personnel.

We now rule on these arguments. The Civil Service Commission predicated its ruling on Section 33, Rule XVI of the Revised Civil Service Rules, which was in effect at the time. The provision states:

"Under no circumstances shall leave without pay be granted for more than one year. If an employee who is on leave without pay for any reason