

## EN BANC

[ G.R. No. 127838, January 21, 1999 ]

**CIVIL SERVICE COMMISSION, PETITIONER, VS. JOSE J. LUCAS,  
RESPONDENT.**

### D E C I S I O N

**PARDO, J.:**

The petition for review on certiorari before the Court assails the decision of the Court of Appeals<sup>[1]</sup> which set aside the resolution of the Civil Service Commission<sup>[2]</sup> and reinstated that of the Board of Personnel Inquiry (BOPI for brevity), Office of the Secretary, Department of Agriculture,<sup>[3]</sup> suspending respondent for one month, for simple misconduct.

To provide a factual backdrop of the case, a recital of the facts is necessary.

On May 26, 1992, Raquel P. Linatok, an assistant information officer at the Agricultural Information Division, Department of Agriculture (DA for brevity), filed with the office of the Secretary, DA, an affidavit-complaint against respondent Jose J. Lucas, a photographer of the same agency, for misconduct.

Raquel described the incident in the following manner:

“While standing before a mirror, near the office door of Jose J. Lucas, Raquel noticed a chair at her right side which Mr. Jose Lucas, at that very instant used to sit upon. Thereafter, Mr. Lucas bent to reach for his shoe. At that moment she felt Mr. Lucas’ hand touching her thigh and running down his palm up to her ankle. She was shocked and suddenly faced Mr. Lucas and admonished him not to do it again or she will kick him. But Lucas touched her again and so she hit Mr. Lucas. Suddenly Mr. Lucas shouted at her saying ‘lumabas ka na at huwag na huwag ka nang papasok dito kahit kailan’ A verbal exchange then ensued and respondent Lucas grabbed Raquel by the arm and shoved her towards the door causing her to stumble, her both hands protected her face from smashing upon the door.

Mr. Lucas, bent on literally throwing the affiant out of the office, grabbed her the second time while she attempted to regain her posture after being pushed the first time. x x x while doing all this, Mr. Lucas shouted at the affiant, saying, ‘labas, huwag ka nang papasok dito kahit kailan’.”<sup>[4]</sup>

On June 8, 1992, the Board of Personnel Inquiry, DA, issued a summons requiring respondent to answer the complaint, not to file a motion to dismiss, within five (5) days from receipt. On June 17, 1992, respondent Lucas submitted a letter to Jose P. Nitullano, assistant head, BOPI, denying the charges. According to Lucas, he did not touch the thigh of complainant Linatok, that what transpired was that he accidentally brushed Linatok's leg when he reached for his shoes and that the same was merely accidental and he did not intend nor was there malice when his hand got in contact with Linatok's leg.

On May 31, 1993, after a formal investigation by the BOPI, DA, the board issued a resolution finding respondent guilty of **simple misconduct**<sup>[5]</sup> and recommending a penalty of suspension for one (1) month and one (1) day. The Secretary of Agriculture approved the recommendation.

In due time, respondent appealed the decision to the Civil Service Commission (CSC). On July 7, 1994, the CSC issued a resolution finding respondent guilty of **grave misconduct** and imposing on him the penalty of dismissal from the service.<sup>[6]</sup> Respondent moved for reconsideration but the CSC denied the motion.

Then, respondent appealed to the Court of Appeals. On October 29, 1996, the Court of Appeals promulgated its decision setting aside the resolution of the CSC and reinstating the resolution of the BOPI, DA, stating thus: "It is true that the Civil Service Act does not define grave and simple misconduct. There is, however, no question that these offenses fall under different categories. This is clear from a perusal of memorandum circular No. 49-89 dated August 3, 1989 (also known as the guidelines in the application of penalties in administrative cases) itself which classifies administrative offenses into three: grave, less grave and light offenses. The charge of grave misconduct falls under the classification of grave offenses while simple misconduct is classified as a less grave offense. The former is punishable by dismissal while the latter is punishable either by suspension (one month and one day to six months), if it is the first offense; or by dismissal, if it is the second. Thus, they should be treated as separate and distinct offenses."<sup>[7]</sup>

The Court of Appeals further ruled that "a basic requirement of due process on the other hand is that a person must be duly informed of the charges against him (Felicito Sajonas vs. National Labor Relations Commission, 183 SCRA 182). In the instant case however, Lucas came to know of the modification of the charge against him only when he received notice of the resolution dismissing him from the service."<sup>[8]</sup>

Hence, this petition.

The issues are (a) whether respondent Lucas was denied due process when the CSC found him guilty of grave misconduct on a charge of simple misconduct, and (b) whether the act complained of constitutes grave misconduct.

Petitioner anchors its position on the view that "the formal charge against a respondent in an administrative case need not be drafted with the precision of an information in a criminal prosecution. It is sufficient that he is apprised of the substance of the charge against him; what is controlling is the allegation of the acts complained of, and not the designation of the offense."<sup>[9]</sup>