

## TWELFTH DIVISION

[ CA-G.R. SP. No. 112791, April 07, 2014 ]

**DEPARTMENT OF HEALTH, PETITIONER, V. DAHLIA M. ROMERO,  
RESPONDENT.**

### **D E C I S I O N**

**ELBINIAS, J.:**

For disposition is a Petition for Review<sup>[1]</sup> filed under Rule 43 of the Rules of Court. The Petition assails the Resolution<sup>[2]</sup> dated September 1, 2009 of the Civil Service Commission ("CSC" for brevity) in CSC Resolution No. 091269. The Petition also questions the CSC's Resolution<sup>[3]</sup> dated January 13, 2010, which denied petitioner's eventual Motion for Reconsideration<sup>[4]</sup>.

Among the salient facts are those as stated in the CSC's Resolution<sup>[5]</sup> of January 13, 2010, which are as follows:

**"The case stemmed from the letter dated August 13, 2007 of Dr. Emmanuel F. Acluba informing Atty. Ronald R. De Veyra on the incident that took place sometime in August 2006 at Chowking Restaurant, Tayuman St., Rizal Avenue, Sta. Cruz, Manila wherein a certain Vengil who claimed to be a cousin of Atty. Cherrie Grace P. Bareng of the DOH-Legal Service approached him to arrange a settlement of his administrative cases pending before said agency in consideration of sum of money in the amount of Three Hundred Fifty Thousand pesos (Php 350,000.00) and that Dahlia M. Romero, a staff in the Legal Service, was around.**

**In response to the aforementioned letter, De Veyra issued a letter dated September 18, 2007 directing Romero to submit her Counter- Affidavit relative to her alleged involvement in the said extortion against Acluba. Subsequently, Romero, instead of submitting a Counter- Affidavit, wrote a letter dated November 12, 2007 wherein she affirmed that she was at Chowking Restaurant, Tayuman St., Rizal Avenue, Sta. Cruz, Manila during that time not to settle the case of Dr. Acluba but to meet Vengil.**

**Not satisfied with Romero's explanation, De Veyra recommended that Romero be administratively disciplined and formally charged with Grave Misconduct."<sup>[6]</sup> (*Emphasis Supplied*)**

On November 10, 2008, petitioner Department of Health ("petitioner" for brevity), through its Secretary of Health Francisco T. Duque, III ("Secretary of Health" for brevity), rendered a Decision<sup>[7]</sup> finding respondent Dahlia M. Romero ("respondent"

for brevity) guilty of "Grave Misconduct". The dispositive portion of the Decision<sup>[8]</sup> stated as follows:

"WHEREFORE, premises considered, **MRS. DAHLIA M. ROMERO**, is hereby found guilty of Grave Misconduct and meted out the administrative penalty of **DISMISSAL FROM THE SERVICE with forfeiture of retirement benefits and perpetual disqualification for re-employment in the government service.**

SO ORDERED."<sup>[9]</sup> (*Emphasis was made in the original*)

Upon respondent's appeal, the CSC issued the assailed Resolution<sup>[10]</sup> of September 1, 2009, which set aside and reversed the Secretary of Health's Decision<sup>[11]</sup> dated November 10, 2008. The dispositive portion of the Resolution<sup>[12]</sup> stated as follows:

"**WHEREFORE**, the appeal of Dahlia M. Romero, Legal Assistant II, Legal Service – Department of Health (DOH) is hereby **GRANTED**. Accordingly, the Decision dated November 10, 2008 issued by Secretary Francisco T. Duque III, DOH dismissing her from the service for Grave Misconduct, is **REVERSED AND SET ASIDE**. Accordingly, Dahlia S. Romero is hereby **REINSTATED** to her former position and shall be paid her back salaries and other benefits corresponding to the period of her illegal dismissal."<sup>[13]</sup> (*Emphasis was made in the original*)

After petitioner's Motion for Reconsideration<sup>[14]</sup> was denied by the CSC in its other questioned Resolution<sup>[15]</sup> of January 13, 2010, petitioner filed the Petition<sup>[16]</sup> at bench, praying that:

"(1) a temporary restraining order and writ of preliminary injunction be issued enjoining the enforcement and implementation of the Resolution No. 091269 dated September 1, 2009 and Resolution No. 100175 dated January 13, 2010, of the Civil Service Commission.

(2) the Resolution No. 091269 dated September 1, 2009 and Resolution No. 100175 dated January 13, 2010, of the Civil Service Commission be REVERSED and SET ASIDE and

(3) the Decision dated November 10, 2008 of petitioner be AFFIRMED."<sup>[17]</sup>

In its Petition, petitioner raised the following grounds:

"I

**THE CIVIL SERVICE COMMISSION (CSC) GRAVELY ERRED IN DENYING PETITIONER DOH'S MOTION FOR RECONSIDERATION ON THE GROUND OF LACK OF PERSONALITY OF THE DOH-LEGAL SERVICE TO FILE THE SAME. THE MOTION FOR RECONSIDERATION AND THE APPEAL WAS DULY FILED BY PETITIONER DOH THROUGH ITS LEGAL SERVICE WHICH IS MANDATED TO GIVE LEGAL ADVICE, REPRESENT AND PROTECT THE LEGAL INTERESTS OF PETITIONER.**

II

**THE CSC GRAVELY ERRED IN REVERSING THE DECISION OF PETITIONER DOH. THERE WAS MORE THAN SUBSTANTIAL EVIDENCE TO SUPPORT A FINDING THAT RESPONDENT WAS ADMINISTRATIVELY LIABLE FOR GROSS MISCONDUCT."**<sup>[18]</sup>  
(*Emphasis was made in the original*)

Contrary to petitioner's allegations in its *assigned ground I*, the CSC properly denied petitioner's Motion for Reconsideration<sup>[19]</sup>.

Petitioner had argued as follows:

**"xxx Petitioner, through its Legal Service, headed by Atty. Ronald R. De Veyra, CEO VI, filed the motion for reconsideration. His position carries with it the mandate to give advice and recommend appropriate action on legal matters and to protect the legal interests and defend the cause [of] petitioner. In this case, the DOH-Legal Service is duty bound to take appropriate action from the adverse Resolution of the CSC and defend the administrative disciplinary action taken by the DOH. Thus, the filing of the motion for reconsideration.**

xxx

**In the present case, petitioner, through the Secretary of Health as the disciplining authority, rendered the Decision xxx which found respondent guilty of gross misconduct. Such decision was appealed by respondent to the CSC. During the appeal, the DOH-Legal Service, performing the mandate of the Office, filed the necessary pleadings defending the administrative disciplinary action taken by petitioner. It submitted comment on the appeal and when the adverse Decision was rendered, it filed a motion for reconsideration. Surely, this is well within the duties and functions of the DOH-Legal Service."**<sup>[20]</sup> (*Emphasis supplied*)

Defeating petitioner's arguments however, is that even if petitioner, through its Legal Service, could have had the personality to file the Motion for Reconsideration<sup>[21]</sup>, still, petitioner failed to comply with the grounds for filing a Motion for Reconsideration under Section 40 of the Uniform Rules on Administrative Cases in the Civil Service, which states:

"Section 40. Grounds for Motion for Reconsideration. - The motion for reconsideration shall be based on any of the following:

- a. New evidence has been discovered which materially affects the decision rendered, or
- b. The decision is not supported by evidence on record or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant."

Petitioner's failure to offer new arguments, evidence, or errors of law in its Motion for Reconsideration<sup>[22]</sup> was as also found by the CSC, in the following manner:

"Admitting en arguendo that the same was interposed by a proper party, the same still warrants its outright dismissal considering that **the arguments raised in the present motion are practically rehash of the very same arguments which had already been judiciously passed upon and resolved in the resolution sought to be considered.**

XXX

**The defenses of De Veyra are mere allegations not sufficient enough to constitute a cause of action against Romero. Thus, without a strong controverting and/or circumstantial evidence, the same will not ripen to a case tantamount for the Commission to render a valid verdict in accordance with the decision of the DOH.**

XXX

xxx, **it is clear that the present motion did not offer any new argument, evidence of errors of law that would convince the Commission to overturn its resolution** in the previous appeal. **Thus, the Commission has no other recourse but to deny the instant motion for reconsideration.**"<sup>[23]</sup> (*Emphasis supplied*)

Besides, contrary to petitioner's allegations in its *assigned ground II*, there was no substantial evidence to prove that respondent was administratively liable for Grave Misconduct.

Petitioner had argued as follows:

"xxx **The act of respondent in arranging a meeting between Dr. Acluba and a cousin of the Hearing Officer and in conspiring with the said cousin in asking for a sum of money from Dr. Acluba in exchange for the facilitation of the settlement of the administrative case of Dr. Acluba constitutes gross misconduct.**

XXX

As could be gleaned from the records, **respondent sent text messages to Dr[.] Acluba regarding the facilitation of the resolution of his administrative case, arranged the meeting so that Dr. Acluba would be introduced to Vergil, the cousin of Atty. Bareng, and conspired with Vergil in demanding a sum of money in exchange of the settlement of the case.** These acts are reprehensible that taint the reputation and integrity of the whole institution of the DOH.

XXX

xxx **the charge against respondent was more than substantially supported by evidence. The letter complaint of Dr. Acluba categorically and positively averred that he met respondent and Vergil met (sic) in a restaurant wherein respondent and Vergil tried to demand from him the amount of Three Hundred Fifty Thousand Pesos (P350,000.00) in order to facilitate the resolution of the administrative case against him.** xxx