

## **SPECIAL TWELFTH DIVISION**

**[ CA-G.R. SP No. 133064, May 23, 2014 ]**

**LEODEGARIO B. VALERA, JR., PETITIONER, VS. ATTY. ARMANDO  
R. CROBALDE, JR., RESPONDENT.**

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

**DICDICAN, J.:**

Before this Court is a Petition for Review<sup>[1]</sup>, under Rule 43 of the Revised Rules of Court, challenging the Decision dated November 5, 2013<sup>[2]</sup>, issued by the Civil Service Commission, which dismissed petitioner Leodegario B. Valera, Jr.'s appeal from the Decision and Resolution of the Department of Agriculture on the ground of lack of jurisdiction.

The antecedent facts are the following:

Sometime in 1987, petitioner Leodegario B. Valera, Jr. was employed by Quedan and Rural Credit Guarantee Corporation (Quedancor). On April 26, 2011, Frederico Espiritu, the then president of Quedancor, issued Memorandum Order No. 167, ordering petitioner's dropping from the rolls due to his alleged absences without leave (AWOL) for more than thirty (30) working days. Dropping from the rolls is a mode of separation from the service which is non-disciplinary in nature and does not result in the forfeiture of any benefit on the part of the official or employee or in the disqualification from re-employment in the government.<sup>[3]</sup>

After some official exchanges of dialogue between petitioner and Frederico Espiritu, the former questioned Memorandum Order No. 167 before the Civil Service Commission-National Capital Region (CSC-NCR), praying that the order dropping him from the rolls be set aside. On May 16, 2012, the CSC-NCR upheld Quedancor's order.

This led to the filing of an appeal<sup>[4]</sup> by the petitioner before the Civil Service Commission, seeking the reversal of the CSC-NCR Decision dated May 16, 2012.

On November 21, 2012, the Civil Service Commission reversed the Decision of the CSC-NCR, thereby reinstating petitioner to his former position with payment of backwages and other benefits from April 26, 2011, when he was dropped from the rolls, up to the date of his reinstatement.<sup>[5]</sup>

On May 31, 2012, respondent Atty. Armando R. Crobalde, Jr. became the new Officer-in Charge/President and CEO of Quedancor. In response to the Civil Service Commission Decision dated November 21, 2012, he filed a Motion for Reconsideration, dated December 19, 2012, before the Civil Service Commission.<sup>[6]</sup> Respondent argued that the appeal filed by petitioner before the Civil Service Commission from the decision of the CSC-NCR was not perfected in accordance with the Revised Rules on Administrative Cases in the Civil Service (RRACCS) because

Quedancor was not furnished a copy of the Appeal Memorandum filed by petitioner. Hence, the appeal to the Civil Service Commission was purportedly invalid and the CSC-NCR Decision was consequently final and executory.

By reason of the fact that respondent stated in his afore-mentioned Motion for Reconsideration that Quedancor was not furnished a copy of the Appeal Memorandum, petitioner filed a Complaint, dated December 27, 2012,<sup>[7]</sup> against respondent for Grave Misconduct, before the Office of the Ombudsman. To support the complaint for grave misconduct, petitioner claimed that respondent made untruthful statements in the narration of facts in the Motion for Reconsideration because the alleged reality was that Quedancor was furnished a copy of the Appeal Memorandum.

The Office of the Ombudsman, in a referral-letter dated January 8, 2013<sup>[8]</sup>, referred petitioner's complaint to the Chairman of Quedancor Governing Board, Office of Secretary Proceso Alcala, Department of Agriculture. In a letter to the Ombudsman dated February 18, 2013<sup>[9]</sup>, Hon. Alcala declared that the complaint for grave misconduct against respondent was devoid of merit, it having been shown that the weight of evidence leans in favor of the respondent. Hon. Alcala discussed how herein petitioner was able to succeed in securing a rubber stamp for the receipt of the Appeal Memorandum but did not actually leave a copy of the said document in the office of the president of Quedancor. As far as the Office of Hon. Alcala is concerned, therefore, the complaint of petitioner stood dismissed for lack of merit. The Office of the Ombudsman thereafter noted the findings of Hon. Alcala in an Order dated March 15, 2013.

Petitioner thus filed an Omnibus Motion before the Office of the Secretary of the Department of Agriculture, seeking the reconsideration of its findings and claiming that it deviated from the provision of the Revised Rules on Administrative Cases in the Civil Service (RRACCS). Petitioner also discussed in said Omnibus Motion the provisions of the Civil Service Commission rules in the conduct of a formal investigation and belabored anew his previous position disputing the testimony of respondent's witness, claiming that the latter committed falsehood.<sup>[10]</sup>

In a three (3)-page Resolution<sup>[11]</sup>, Hon. Alcala denied the Omnibus Motion and provided an analysis of the case as follows:

"a. The procedure on formal investigation prescribed by the Civil Service Commission is not the issue here because it has not come into play due to the dismissal of the case at the **Preliminary Investigation stage**.

b. As succinctly pointed out by Atty. Crobalde in his Comment on Complainant's Omnibus Motion, Section 15, Rule 4 of the CSC rules provides for the conduct of a **preliminary investigation (prior to the conduct of a formal investigation)** which is a "proceeding undertaken whether a **prima facie case** exists to warrant the issuance of a formal charge. It involves a fact-finding investigation or an **ex-parte examination of records and documents submitted by the complainant and the person(s) complained of**, as well as documents readily available from other government offices."

c. Complainant insists that the disciplining authority "must conduct a formal investigation" but even in the provision (Section 30 of the CSC

Rules) cited by him in his Omnibus Motion, it is abundantly clear that a formal investigation is predicated on two (2) considerations, to wit: (1) where the merits of the case cannot be decided judiciously without conducting such investigation; or (2) **when the respondent elects to have one**. Neither of these two conditions is present in this case to warrant the conduct of a formal investigation.

d. Complainant's attempt to challenge the testimony of Mr. Rolando Y. Flores (main witness of Atty Crobalde) consists of a sworn statement of Mr. Chito A. Cifra who simply stated that the statement of Mr. Flores is a "deliberate falsehood" or "never heard" or "I do not recall" or "no such incident." On the other hand, the sworn Statement of Mr. Flores is complete with details of what was done and what was not done and who were present when the alleged stamping of the word "Received" incident took place. He even reiterated his sworn statement in a handwritten "Sinumpaang Salaysay" which included a narration of his conversation with Mr. Valera who was obviously trying to pressure, nay, threaten Mr. Flores into recanting his damaging sworn statements.

e. In sum, complainant has obviously presented nothing that would compel this Office to reconsider the earlier findings that there is no merit in the Complaint as to warrant the conduct of a formal investigation.

Therefore, foregoing premises considered, instant Omnibus Motion of Complainant is hereby **DENIED with finality**.

**So ordered.**<sup>[12]</sup>

Petitioner elevated the case to the Civil Service Commission, alleging that the Decision and Resolution issued by Hon. Alcala were contrary to evidence and disregarded the Revised Rules on Administrative Cases in Civil Service (RRACCS).

On November 5, 2013, the Civil Service Commission promulgated the challenged Decision, dismissing the case pursuant to Section 69, Rule 13 of the RRACCS, for lack of jurisdiction. The dispositive portion of the said Decision reads as follows:

**"WHEREFORE**, foregoing premises considered, the appeal of Leodegario B. Valera, Jr. Senior Operations Officer, Quedan and Rural Credit Guarantee Corporation (QUEDANCOR), Quezon City, is hereby **DISMISSED**. Accordingly, the Letter dated February 18, 2013 issued by Secretary Proceso J. Alcala, Department of Agriculture (DA), dismissing his complaint against Armando R. Crobalde, Jr. for lack of merit, **STANDS**."<sup>[13]</sup>

Not in conformity with the aforementioned Civil Service Commission Decision, the petitioner filed the instant appeal, raising the following issues and/or assignment of errors, to wit:

I.

THE CIVIL SERVICE COMMISSION COMMITTED SERIOUS ERROR IN DISMISSING THE APPEAL ELEVATED BEFORE IT BY THE PETITIONER

II.