

TWENTY-SECOND DIVISION

[CA-G.R. SP NO. 115671-MIN, August 13, 2014]

**ANTONIO CONSUEGRA SALIGUMBA, PETITIONER, VS.
OMBUDSMAN- MINDANAO RESPONDENT.**

D E C I S I O N

INTING, J.:

Before Us is a petition for review under Rule 43 of the Rules of Court seeking to reverse the March 31, 2009 Decision^[1] of the Office of the Ombudsman-Mindanao, the pertinent *falla* of which reads:

"WHEREFORE, premises considered, this Office finds substantial evidence to hold respondents Executive Assistant IV JETHRO P. LINDO, Municipal Accountant VENUS M. CARLOS, Municipal Treasurer EBRENCIO FIJO INDOYON JR., Municipal Budget Officer ANTONIO CONSUEGRA SALIGUMBA, Cash Clerk I NILDA T. FERRANDO, all of the Municipality of Lingig, Surigao del Sur, liable for Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and in accordance with Section 52 in relation to Section 55 of Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, they are hereby DISMISSED from the service.

xxx

SO ORDERED. "

The facts of the case are as follows:

Herein petitioner Antonio Saligumba, as the Municipal Budget Officer of the Municipality of Lingig, Surigao del Sur, was charged with dishonesty, grave misconduct and conduct prejudicial to the best interest of service together with Executive Assistant IV Jethro Lindo, Municipal Accountant Venus Carlos and Cash Clerk/Disbursing Officer Nilda Ferrando, of the same municipality. The charges stemmed from a complaint^[2] dated October 25, 2004 filed before the Civil Service Commission by Leonor Otagan, the designated Human Resource Officer of the Municipality of Lingig alleging that sometime in April 2004, the municipal accountant allowed the cash clerk disbursing officer to advance cash in the amount of P2,327,291.32 for salaries and honorarium even without attachments and job orders; that the alleged employees listed on the job order did not really exist nor were they visibly reporting to the offices; and that they were not even aware that they were employed by the agency. Otagan averred that the acceptance and cognizance by the executive assistant, the municipal accountant, the municipal

budget officer and the disbursing officer are grounds for violation of the Civil Service law and rules.

Beforehand, however, the Office of the Ombudsman already received a letter-complaint dated October 21, 2004 from Rito Orillo, a member of the Sangguniang Bayan of Lingig requesting an investigation on the alleged payment of honoraria for job order workers who are purportedly fictitious.

Consequently, the Office of the Ombudsman requested that the Commission on Audit conduct an investigation on the allegations. Per November 16, 2005 fact-finding audit/investigation report,^[3] it was found that the municipality paid per diems and honorarium on April 2004 covering the months January 2004 to April 2004 amounting to P1,610,800.00 to 101 job order employees who were dummies per admission by the municipal mayor; and that the municipality paid P1,610,800.00 for alleged intelligence expenses even if there was no provision for Confidential/Intelligence Fund in the 2004 Annual Budget. The audit team likewise found that at the time the payments of the salaries of the supposed confidential employees under the job order were made in April 2004, the job orders were not yet signed and supporting documents were not yet accomplished since it was only in June of the same year when Otagan, the HRO, was approached and requested to sign the job orders; and that it was only in August 2004 that the cash advance was liquidated based on job orders prepared and signed by the executive assistant and not by Otagan. Considering that there was no job order, then, there was really no hiring of job order employees, thus, the names appearing in the payroll are non-existent and the payment therefore is illegal.

From the foregoing findings, COA recommended not only for the disallowance of the P1,610,800.00 disbursement but also to hold the public officers liable including herein petitioner for certifying the existence of obligation in the job orders despite the fact that there were no job order employees hired. The complaints unit of the Office of the Ombudsman-Mindanao supported the filing of the appropriate cases against the officials involved.^[4]

For his defense, the petitioner maintained that his authority was only limited to certifying the existence of an appropriation; and per Sangguniang Bayan Resolution No. 229 series of 2003, adopting the annual LGU budget for CY 2004, an appropriation of P1,000,000.00 for National Security Mission Projects and Initiatives and P450,000.00 for Peace and Order and Public Safety are incorporated therein.

The Office of the Ombudsman rendered the assailed decision holding that it cannot consider herein petitioner and his colleagues to have acted in good faith; that the petitioner certified as to the existence of appropriation in the allotment and obligation slips in June 2004 for the honoraria and in April 24, 2004 for the per diems to cover the cash advance drawn earlier on April 12, 2004; that he participated in the preparation of the job order contract because he certified on the existence of the appropriation providing the basis of the payroll submitted as liquidation for the cash advance; and that he cannot deny knowing that the transaction did not follow the proper and regular documentation.

The petitioner and the other implicated officials filed a motion for reconsideration of the Ombudsman decision. However, the petitioner withdrew his motion and instead

opted to file the present petition for review. The Office of the Ombudsman partly granted the motion for reconsideration of the other implicated employees and the penalty of dismissal was reduced to a suspension of one (1) year being their first offense per Order dated February 24, 2011.^[5]

Meanwhile, petitioner comes to Us maintaining that the mayor justified the cash advance as necessary, reasonable, and lawful as contracts for job orders under peace and order funds and national security mission funds; that his certification was only on the existence of the appropriation and not on the obligation which is the sole function of the municipal accountant; and that there indeed were approved appropriations from where the amount for the payment of the job orders could be sourced. He added that he had no participation in drawing and issuing checks for cash advances nor did he intervene in the normal and regular processing thereof; that he could not have known whether the amount covering the job orders were already advanced; and that there was no evidence that he participated in the alleged irregularities after he certified the appropriations.

Our Ruling

Petition is with merit.

Under Section 475 (b) of the Local Government Code, the budget officer is mandated to perform the following duties, among others:

1. Prepare forms, orders and circulars embodying the instructions on budgetary and appropriation matters for the signature of the governor or mayor, as the case may be;
2. Review and consolidate the budget proposals of different departments and offices of the local government unit;
3. Assist the governor or mayor, as the case may be, in the preparation of the budget and during budget hearings;
4. Study and evaluate budgetary implications of proposed legislation and submit comments and recommendations thereon;
5. Submit periodic budgetary reports to the Department of Budget and Management;
6. Coordinate with the treasurer, the accountant, and the planning and development coordinator for the purpose of the budgeting;
7. Assist the sanggunian concerned in reviewing the approved budgets of component local government units;
8. Coordinate with the planning and development coordinator in the formulation of the local government unit development plan.

In addition to the above enumeration, the budget officer is also tasked to certify as