

SIXTEENTH DIVISION

[CA-G.R. SP NO. 76938, August 18, 2006]

**GUIA NAJERA ISON, PETITIONER, VS. OFFICE OF THE
OMBUDSMAN, HON. MARGARITO P. GERVACIO, JR. AND JULITA
M. CALDERON, FACT-FINDING AND INTELLIGENCE BUREAU
(FFIB), REPRESENTED BY ATTY. MELCHOR ARTHUR CARANDANG,
RESPONDENTS.**

D E C I S I O N

DIMARANAN-VIDAL, J.:

Before Us is the *Petition for Review*^[1] under Rule 43 of the Revised Rules of Court, with a prayer for the issuance of a Temporary Restraining Order (TRO) and/or a Writ of Preliminary Injunction filed by Petitioner GUIA NAJERA ISON (hereinafter Petitioner) assailing the Decision^[2] dated 12 February 2002 of the OFFICE OF THE OMBUDSMAN (Ombudsman) in OMB-ADM-0-01-0219 entitled *Fact-Finding and Intelligence Bureau (FFIB), Represented By: Atty. MELCHOR ARTHUR CARANDANG vs. Dr. GUIA NAJERA ISON, Medical Officer VI, Quezon City Health Department for Dishonesty and Grave Misconduct*, the subsequent Order^[3] dated 18 March 2003 denying Petitioner's Motion for Reconsideration of the aforesaid Decision as well as its Memorandum^[4] affirming the said Order.

THE FACTS

Petitioner was a Medical Officer VI of the Quezon City Health Department^[5] when criminal and administrative complaints docketed as OMB-0-01-0318 for Falsification of Official Documents and the Use of Falsified Documents penalized under Article 171 in relation to Article 172 of the Revised Penal Code, and OMB-ADM-0-01-0219 for Dishonesty and Grave Misconduct under Rule IV, Section 52 of the Revised Uniform Rules on Administrative Cases in the Civil Service^[6], respectively, were filed against her. The said complaints were initiated by Atty. MELCHOR ARTHUR H. CARANDANG, Graft Investigation Officer II, and Chief, Legal Monitoring and Prosecution Division, representing the Fact-Finding and Intelligence Bureau (FFIB) of the Office of the Ombudsman.^[7] The pertinent portion of the aforesaid complaints state that:

x x x

- 1. Dr. Ison, as member of the Ozone Task Force was given authority to render overtime services for the period starting March 23 to August 31, 1996. Her Daily Time Records for the subject months, which reflected overtime up to about 8:00 or 9:00 p.m. and meetings attended, were duly signed by her**

and the Chief of the Division, Dr. Teresita T. Novera, Medical Officer VI;

2. In order to claim higher overtime pay for the subject months, Dr. Ison prepared another set of Daily Time Records, the entries of which are falsified to make it appear that she rendered overtime services regularly until eleven in the evening (11:00 p.m.); and

3. The wrongful acts of respondent Ison evidently manifest her disposition to commit falsehood and defraud the government, and allowed her to obtain overtime pay amounting to P11,965.00 for the subject period.

x x x^[8]

In denying the abovementioned charges, Petitioner averred the following:

x x x

a. all my regular time records were prepared by the Administrative Division based on a logbook which all City Health personnel sign when they report for work and when they leave for each day and I sign these time records before they are countersigned by my superior;

b. that all my overtime time records were prepared by the personnel assigned to prepare these overtime time record for the Task Force Ozone after the Mayor has approved the request that those who rendered overtime for the Task Force be allowed to receive overtime pay; that only the allowed number of hours for overtime was approved by the Fiscal Control Unit, the accounting and city auditor; that in truth I have rendered overtime work over and above what was reflected in my overtime time records and in fact I have rendered overtime work for the Ozone incident even after August 31, 1996 and for which I was not paid overtime pay; Dr. Fortun can attest to this fact; that I reserve the right to submit additional factual evidence on this matter as the inadequate time allowed for me to submit this counter-affidavit has prevented me to collate all the material facts because I am obligated to render my regular work everyday;

6. That it is important to state at this point that I have rendered dedicated service to the Quezon City Government and that even in the past I have rendered service beyond the time required but I never collected overtime pay; that the General Payroll submitted to the Office of the Ombudsman by the City Auditor of Quezon City will attest to the fact that there were other Health Personnel who rendered the same amount of overtime that I was credited with and which will attest to the fact that we have rendered valid overtime, the duration of which is justifiable and these people whose names appear in the General Payroll are the best witnesses who can validate my statement and not the coward and self-centered anonymous complainants who do not want to be

identified.

x x x^[9]

On 7 January 2003, the Ombudsman issued a Resolution dismissing the criminal charges, *supra*, filed against the Petitioner for insufficiency of evidence to establish probable cause.^[10]

However, with respect to the Administrative aspect of the complaint, *supra*, the Ombudsman found Petitioner guilty of Dishonesty, the dispositive portion of the Decision reads:

WHEREFORE, premises considered, this Office finds respondent Dr. GUIA NAJERA ISON of the Quezon City Health Department, guilty of Dishonesty and pursuant to the aforestated provision of the law, the penalty of DISMISSAL FROM THE GOVERNMENT SERVICE is hereby imposed.

The Mayor of Quezon City is hereby directed to implement this decision upon finality hereof.

SO ORDERED.^[11]

On 18 March 2003, the subsequent motion for reconsideration of the Petitioner was denied by the Ombudsman.^[12]

On 27 March 2003, JULITA M.CALDERON, the Graft Investigation Officer II of the Office of the Ombudsman, issued a Memorandum^[13] recommending the approval of the aforesaid denial of the motion for reconsideration.

THE ISSUES

Aggrieved, Petitioner filed instant petition with the principal argument that the dismissal of the criminal charges against her warrants her exoneration from the corresponding administrative case considering that both cases arose from the same set of facts.^[14]

In addition, Petitioner contends that the challenged Decision is not supported by relevant or substantial evidence and is based on mere assumptions, conjectures and surmises.^[15]

OUR RULING

We find the petition bereft of merit.

Relevant to the main argument advanced by the Petitioner, is the ruling of the Supreme Court in *De la Cruz vs. Department of Education, Culture and Sports-Cordillera Administrative Region*^[16], thus:

Dismissal of the criminal case does not foreclose administrative action involving the same facts. For while proof beyond reasonable doubt is required in criminal cases, substantial