

THIRD DIVISION

[G.R. NO. 155952, October 04, 2007]

**JUANITO A. RUBIO PETITIONER, VS. PIO L. MUNAR, JR.,
RESPONDENT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Assailed in the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is the Decision^[1] of the Court of Appeals (CA) promulgated on August 30, 2002, and its Resolution dated November 6, 2002.

The present petition stemmed from a complaint for dishonesty, grave misconduct, falsification of official document and oppression filed by Pio L. Munar, Jr. (respondent) against Juanito A. Rubio (petitioner) together with Virginia C. Laudencia (Laudencia) and Clarence C. Morales (Morales) with the Regional Office of the Civil Service Commission (CSC) at San Fernando, La Union.

Prior to the filing of the said complaint, respondent was a Utility Foreman of the Department of Health and assigned to the Ilocos Regional Hospital in San Fernando, La Union, where petitioner, Laudencia and Morales were serving as Chief of Hospital, Acting Personnel Officer and Payroll Master, respectively.

In April 1996, the Hospital Credentials Committee (Committee) of the Ilocos Regional Hospital conducted a meeting for the purpose of assessing the performance of the hospital personnel. At the conclusion of the meeting, the Committee recommended that respondent be demoted from his position as Utility Foreman to Utility Worker I.

The recommendation of the Committee was then forwarded to petitioner who, acting thereon, issued an appointment to respondent demoting him to the lower position of Utility Worker I with corresponding reduction in pay.

This prompted respondent to file the above-mentioned complaint against petitioner, Laudencia and Morales.

After an evaluation of the complaint, the CSC Regional Office found that there exists a *prima facie* case against petitioner, Laudencia and Morales. They were then directed to file their respective answers to the complaint.

Petitioner and Laudencia submitted a consolidated answer while Morales executed an affidavit, denying the charges against them. The CSC Regional Office then conducted a formal investigation during which the parties presented their respective evidence. In the course of the proceedings, respondent withdrew his complaint against Morales.

In her Investigation Report dated July 2, 1998, CSC Hearing Officer Atty. Elvira L. Lomboy found that respondent failed to establish by sufficient evidence that petitioner and Laudencia were guilty of the infractions of which they had been charged. The Investigation Report was approved by Imelda G. Abueg, Director IV of CSC Regional Office No. 1.

Thereafter, the Investigation Report was forwarded to the CSC Central Office at Diliman, Quezon City. On October 30, 1998, the CSC Central Office issued a Resolution finding petitioner guilty of simple misconduct and was meted the penalty of three-month suspension. On the other hand, Laudencia was exonerated from the charges against her.

Petitioner filed a Motion for Reconsideration while respondent filed a Petition for Reconsideration.

In a Resolution dated May 6, 1999, the CSC Central Office modified the penalty imposed on Rubio. Instead of suspension for three months, he was directed to pay a penalty of fine equivalent to his three-month salary.

Aggrieved by the Resolution of the CSC Central Office, petitioner filed a Petition for Review with the CA. On August 30, 2002, the CA rendered a Decision dismissing the petition for lack of merit. Petitioner filed a Motion for Reconsideration but the same was denied in a Resolution of the CA dated November 6, 2002.

Hence, herein petition raising the following issues:

1. WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE CIVIL SERVICE COMMISSION'S FINDING THAT PETITIONER IS GUILTY OF SIMPLE MISCONDUCT;
2. WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE CIVIL SERVICE COMMISSION (CSC) RESOLUTION NOS. 982839 AND 990949 SANS LACK OF JURISDICTION ON THE PART OF THE COMMISSION PROPER TO REVIEW AND REVERSE THE DECISION RENDERED BY THE CSC REGIONAL OFFICE.^[2]

Petitioner contends that as Chief of the Ilocos Regional Hospital, he exercises direct control and supervision over all subordinate officers and employees of the said hospital; the exercise of such control and supervision requires the use of discretion which should be respected if it is not used in an abusive, whimsical and oppressive manner; he cannot be said to have performed an unlawful act when he demoted respondent because the same was based on the recommendation of the hospital's Credentials Committee; his act of rating respondent's performance as unsatisfactory was simply a lawful exercise of his duty as Chief of Hospital, and there is no evidence that such act was done with bias and malice.

Petitioner also contends that the CSC Central Office has no jurisdiction to take cognizance of his case, as respondent did not appeal the decision rendered by the CSC Regional Director.

In its Comment, the Office of the Solicitor General (OSG) contended that petitioner's

act of demoting respondent was done in violation of the latter's right to due process of law, because he was not formally charged and no investigation was conducted to afford him the opportunity to air his side.

As to the jurisdiction of the CSC Central Office, the OSG contends that since respondent was not formally charged, he could not have filed an appeal of the decision rendered by the CSC Regional Director. Arguing on the premise that respondent was deprived of due process of law, the OSG concluded that it is only proper for the CSC Central Office to take cognizance of the decision of the CSC Regional Director.

The parties filed their respective Memoranda.

The petition is bereft of merit.

Petitioner's contention that the CA erred in affirming the findings of the CSC Central Office that petitioner is guilty of simple misconduct is untenable.

Misconduct is "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer."^[3] The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be established by substantial evidence.^[4] Otherwise, the misconduct is only simple.^[5]

In the instant case, the Court finds no cogent reason to depart from the findings of the CSC Central Office that petitioner is guilty of simple misconduct for having imposed upon respondent the penalty of demotion as a form of disciplinary sanction, in the absence of any formal charge and without the benefit of due process.

Settled is the rule that factual findings of administrative agencies, such as the CSC, that are affirmed by the CA, are conclusive upon and generally not reviewable by this Court.^[6]

There are recognized exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.^[7] The Court finds that none of these exceptions is present in the instant case.

A review of the records of the present case reveals that there is no evidence to show that respondent was formally charged, and that he was given a chance to show