

EN BANC

[G.R. No. 191946, December 10, 2019]

CIVIL SERVICE COMMISSION REPRESENTED BY ANICIA MARASIGAN-DE LIMA AND CESAR D. BUENAFLORE, PETITIONER, VS. ROGELIO L. BERAY, MELISSA T. ESPINA AND VIOLETA R. TADEO, RESPONDENTS.

[G.R. No. 191974]

MELISSA T. ESPINA AND VIOLETA R. TADEO, PETITIONERS, VS. CIVIL SERVICE COMMISSION, REPRESENTED BY ANICIA MARASIGAN-DE LIMA AND CESAR D. BUENAFLORE, RESPONDENTS.

D E C I S I O N

HERNANDO, J.:

It is inscribed in the Constitution that a public office is a public trust.^[1] Public officers and employees have the mandate to serve the people with utmost responsibility, integrity, loyalty, and efficiency at all times. They must act with patriotism and justice, and lead modest lives.

These consolidated Petitions for Review on *Certiorari* under Rule 45 of the Rules of Court assail the August 28, 2009 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 104796 which found Rogelio L. Beray (**Beray**) guilty of simple neglect of duty, and Melissa T. Espina (**Espina**) and Violeta Tadeo (**Tadeo**) guilty of inefficiency in the performance of their official duties, and its March 30, 2010 Resolution^[3] which denied the motions for partial reconsideration respectively filed by the Civil Service Commission (CSC), and Espina and Tadeo.

The Factual Antecedents

Respondent Beray was the Chief of the Subsidiary and Revenue Section of the Department of Public Works and Highways (**DPWH**) whose duty, among others, was to supervise the recording and control of the Notice of Cash Allocation issued by the Department of Budget and Management for the cash requirements of the Office. He was also vested with authority to sign for the chief accountant's Requests for Obligation and Allotment (**ROAs**), and Disbursement Vouchers (**DVs**) for payment of supplies, materials, furniture and equipment in amounts not exceeding P200,000.00.

On the other hand, Espina and Tadeo were both Accountant III assigned at the Bookkeeping Section. Their duties included controlling the allotment releases, recording of accounting entries in Box B of the DV, maintaining Project Cost Sheets of project assignments, and preparing the Journal and Analysis of Obligation.

Sometime in January 2002, the DPWH issued Department Order No. 15 (**DO 15**), series of 2002, creating a committee to investigate newspaper reports on alleged illegal disbursements of funds and non-observance of procedures on emergency purchases/repairs of the DPWH-owned motor vehicles in 2001. The anomalies involved more than 7,000 transactions in the total amount of P139,000,000.00 paid by the concerned Office.

Pursuant to DO 15, the Investigating Committee designated the Internal Audit Service Department of the DPWH as the Technical Working Group tasked to investigate the alleged irregularities in the repair of motor vehicles of the DPWH Central Office for Calendar Year 2001.

As a result, a Complaint-Affidavit^[4] was filed on July 12, 2002 against several employees of the DPWH Central Office including Beray, Espina, and Tadeo. The complaint arose from anomalous transactions involving the alleged emergency repair of a Nissan Pick-up with plate number TAG 211.

Beray approved the reimbursement of the emergency repair and purchases of spare parts of vehicle TAG 211 even when the spare parts enumerated on the four Requisition for Supplies and Equipment forms (RSEs) cannot be considered as emergency in nature. He certified the propriety of the expenditures and completeness of supporting documents. He also signed the portion for the Department Chief Accountant and Recommending Approval of the voucher even if the funds used for the four vouchers were charged against the Capital Outlay Fund (300-34) which cannot be used for emergency repairs and purchases of spare parts.

^[5] It was also discovered that Beray signed ROAs for amounts exceeding P200,000.00 and the Vouchers of the Certificate of Availability of Funds for payment of emergency purchases/repairs without the prior approval of higher authorities.^[6]

Tadeo, on the other hand, charged the amount of P24,550.00 for the repair of service vehicle TAG 211 (one DV) against Capital Outlay for Roads, Bridges and Highways for ADB-PMO Projects in violation of Section 20 of the General Appropriations Act (GAA). Similarly, Espina improperly charged the expenses for the emergency repair of service vehicle TAG 211 (three DVs) against Capital Outlay for Roads Bridges and Highways for Rural Road Projects in violation of Section 20 of the General Provisions of the GAA.^[7]

Thus, Beray, Espina, and Tadeo, together with other employees, were formally charged with dishonesty, grave misconduct, gross neglect of duty, and conduct prejudicial to the interest of the service, and violations of the following: (a) Civil Service Law; (b) Section 3(e)(g) of Republic Act (RA) No. 3019, as amended; (c) Section 20 of the General Provisions of the GAA; (d) Section 9 of the Special Provision of the GAA; (e) Memorandum of the Secretary on the Guidelines on Purchases of Spare Parts and repair vehicles dated July 19, 1997; (f) DO No. 33, Series of 1988 of RA No. 6770, as amended by RA No. 3018; (g) Commission on Audit (COA) Circular 85-55 A, Series of 1985, and; (h) COA Circular 76-41, Series of 1976, on splitting of RSE, Purchase Orders (POs), vouchers and payrolls. They were likewise preventively suspended from work for a period of 90 days and were required to submit their respective answers within a period of 90 days and were required to submit their respective answers to the charges against them.

The DPWH Secretary then created a Hearing Committee to determine the liability of the erring employees and for the imposition of proper penalty, if any.

Ruling of the DPWH Hearing Committee

On January 7, 2003, the Hearing Committee issued a Resolution^[8] finding Beray guilty of gross neglect of duty and was meted the penalty of dismissal from the service. On the other hand, Espina and Tadeo were found liable for inefficiency in the performance of their official duties, and were suspended for six (6) months and one (1) day. The pertinent portions of the Resolution are stated in this wise:

18.2 Melissa Espina, Violeta Tadeo, bookkeepers and Rogelio Beray, Chief, Subsidiary and Revenue section to whom the approval of ROA and Disbursement Vouchers were delegated by Teresita De Vera, Chief Accountant for transactions below P200,000.00 are charged with Dishonesty and Grave Misconduct. The documents and oral testimonies during the hearing x x x established that they participated in the accomplishment of the ROA for said repairs' by obligating the allotments for Engineering and Administrative overhead under capital outlay without seeking first the approval of higher authorities.

18.3. Further, instead of going slow with care and caution on charging claims for emergency repairs to capital outlay funds as same are under close scrutiny by Management to prevent abuse, a number of ROAs were even changed to include the Obligation of Allotment for other emergency repairs not included in the original ROA entries.

18.4. [Bookkeepers] Espina and Tadeo, though no evidence was adduced to establish dishonesty and misconduct or knowledge of the irregularity of the emergency purchase/repairs, allotments of which they obligated, they are however guilty of inefficiency in the performance of official duties and shall suffer the penalty of Suspension of Six months and One day from work.

18.5 Rogelio Beray, who approved some ROAs funding amounts of claim for reimbursements beyond P200,000.00 in violation of his delegated authority, constitute misconduct. Further, he approved certificates of availability of funds for said payment of said repairs without seeking approval of higher authorities thus is guilty of gross neglect of duty thus, shall suffer the penalty of Dismissal from the service.^[9]

Beray, Espina and Tadeo did not file a motion for reconsideration before the DPWH. Instead, they appealed^[10] their case to the CSC.

In their Appeal Memorandum,^[11] Beray belied signing DVs in amounts exceeding P200,000.00. He also averred that in performing his functions he merely relied on the review made by the employees under his supervision particularly the Chief of the Claims Processing and Documentation Section (CPDS), Chief of Bookkeeping Section; and his staff in the Subsidiary and Revenue Section, on the presumption that they regularly performed their official functions. Thus, he relied on the following acts of the said employees in signing Box B of the DVs:

1. On the initials made by the Chief of the Bookkeeping Section and its Accountants when he certified that adequate funds/budgetary allotment is available, and that the account codes and accounting entries are proper because it is the Bookkeeping Section who controls the allotments, made the entries and keep the book of accounts.
2. On the initials made by the chief of the Claims, Processing and Documentation Section and its Accountants when he certified that the disbursement voucher is supported by adequate documents reasonable enough to establish the facts of the transaction and certified to by the responsible officer under Box A as it is the CPDS who thoroughly reviews the adequacy and validity of the supporting documents.
3. On the certification made by the responsible officer under Box A of the disbursement voucher that the expense covered by the disbursement voucher is legal, valid, and under his knowledge and direct supervision.^[12]

Espina and Tadeo, on the other hand, stressed that their participation in the processing of the reimbursement for repairs of vehicle ad been limited to providing funds for DVs chargeable against the allotment they control. Also, it has been a long practice in the DPWH that repairs of service vehicles, whether regular or emergency, may be charge against the 3.5% engineering and overhead projects of the DPWH. In fact, charging of emergency repairs expenses against capital outlay is authorized under Section 9^[13] of the Special Provisions of the 2000 GAA which was re-enacted for the year 2001.

Ruling of the Civil Service Commission

In its Resolution No. 061465^[14] dated August 15, 2006, he CSC affirmed the findings of the DPWH Hearing Committee. However, it held that Beray was not only liable for gross neglect of duty but also or grave misconduct, as follows:

WHEREFORE, the appeal of Rogelio L. Beray, Chief, Subsidiary and Revenue Section, and Bookkeepers Melissa T. Espina, and Violeta Tadeo, Department of Public Works and Highways (DPWH), is hereby DISMISSED. The Decision of the DPWH dated January 7, 2003 finding Espina and Tadeo guilty of Inefficiency in the Performance of Official Duties and imposing upon them the penalty of six (6) months' suspension, and finding Beray guilty of Gross Neglect of Duty and imposing upon him the penalty of dismissal, is MODIFIED as to appellant Rogelio L. Beray. Accordingly, it is clarified that Beray is likewise found guilty of Grave Misconduct, in addition to Gross Neglect of Duty. Further, let it be stated that the penalty of dismissal carries with it the accessory penalties of, cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office. The same Decision is, however AFFIRMED with respect to the finding of guilt and the penalty imposed on the other appellants Espina and Tadeo.^[15]

Beray, Espina and Tadeo subsequently filed a motion for reconsideration. However, in its Resolution No. 081258^[16] dated July 7, 2008, the CSC denied their motion for lack of merit. This prompted them to file a Petition for Review under Rule 43 of the Rules of Court before the Court of Appeals.

Ruling of the Court of Appeals

In its Decision^[17] dated August 28, 2009, the CA affirmed the ruling of the CSC that Espina and Tadeo were liable for inefficiency and incompetence in the performance of their functions as Accountant III. It however increased the period of suspension imposed upon them from six (6) months and one (1) day to eight (8) months and one (1) day without pay.

As regards Beray, the appellate court held that he was only liable for simple neglect of duty. What Beray actually approved was a single ROA containing a summary of several DVs each with amounts not exceeding P200,000.00. It therefore cannot be said that he exceeded his delegated authority. Nonetheless, Beray was remiss in his duty when he affixed his signature in the subject ROA despite the absence of counter-signature of the requesting authority in the alterations thereon. Thus, the CA reduced his penalty from dismissal from service to suspension of three (3) months and one (1) day without pay.

The *fallo* of the Decision of the CA reads:

WHEREFORE, premises considered, public respondent's assailed Resolution Nos. 061456 and 081258 are MODIFIED to impose against petitioners Espina and Tadeo the penalty of suspension for eight (8) months and one (1) day without pay. Petitioner Beray is, likewise, meted the penalty of suspension of three (3) months and one (1) day without pay.

SO ORDERED.^[18]

The CSC filed a Motion for Partial Reconsideration^[19] assailing the findings of the appellate court with respect to Beray's liability. It maintained that Beray's failure to examine the ROA and the accompanying documents despite clear irregularity constituted misconduct amounting to willful, intentional neglect, and failure to discharge his duties.

Espina and Tadeo likewise filed their Motion for Partial Reconsideration.

In its Resolution^[20] dated March 30, 2010, the CA denied both motions for lack of merit.

Hence, the CSC, and Espina and Tadeo, respectively filed the instant Petitions for Review on *Certiorari*.

The Issues

The main issues for resolution are: