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[G.R. No. 172027, July 29, 2010]

GONZALO S. GO, JR., PETITIONER, VS. COURT OF APPEALS AND OFFICE OF THE PRESIDENT, RESPONDENTS.

D E C I S I O N

VELASCO JR., J.:

Assailed in this Petition for Certiorari[1] under Rule 65 are the Resolutions dated August 17, 2005[2] and January 31, 2006[3] of the Court of Appeals (CA) in CA-G.R. SP No. 90665.

The facts are undisputed.

Petitioner Gonzalo S. Go, Jr. (Go) was appointed in 1980 as Hearing Officer III of the Board of Transportation (BOT), then the government's land transportation franchising and regulating agency, with a salary rate of PhP 16,860 per annum.[4] On June 19, 1987, Executive Order No. (EO) 202[5] was issued creating, within the Department of Transportation and Communications (DOTC), the Land Transportation Franchising and Regulatory Board (LTFRB) to replace the BOT. The issuance placed the LTFRB under the administrative control and supervision of the DOTC Secretary.[6]

On February 1, 1990, the DOTC Secretary extended Go a promotional appointment as Chief Hearing Officer (Chief, Legal Division), with a salary rate of PhP 151,800 per annum.[7] The Civil Service Commission (CSC) later approved this permanent appointment.[8] In her Certification[9] dated October 27, 2005, LTFRB Administrative Division Chief Cynthia G. Angulo stated that the promotion was to the position of Attorney VI, Salary Grade (SG)-26, obviously following budgetary circulars allocating SG-26 to division chief positions.

The instant controversy started when the Department of Budget and Management (DBM), by letter[10] of March 13, 1991, informed the then DOTC Secretary of the erroneous classification in the Position Allocation List (PAL) of the DBM of two positions in his department, one in the LTFRB and, the other, in the Civil Aeronautics Board (CAB). The error, according to the DBM, stemmed from the fact that division chief positions in quasi-judicial or regulatory agencies, whose decisions are immediately appealable to the department secretary instead of to the court, are entitled only to Attorney V, SG-25 allocation. Pertinently, the DBM letter reads:

> Under existing allocation criteria division Chief positions in x x x department level agencies performing quasi-judicial/regulatory functions where decisions are appealable to higher courts shall be allocated to

> Attorney VI, SG-26. Division chief positions in quasi-judicial/regulatory agencies lower than departments such as the **Civil Aeronautics Board** (CAB) and the **Land Transportation Franchising and Regulatory Board** (LTFRB) where decisions are appealable to the Secretary of the DOTC and then the Office of the President shall, however be allocated to Attorney V, SG-25.[11] (Emphasis supplied.)

After an exchange of communications between the DBM and the DOTC, the corresponding changes in position classification with all its wage implications were implemented, effective as of April 8, 1991.[12]

Unable to accept this new development where his position was allocated the rank of Attorney V, SG-25, Go wrote the DBM to question the "summary demotion or downgrading [of his salary grade]" from SG-26 to SG-25. In his protest-letter,[13] Go excepted from the main reason proferred by the DBM that the decisions or rulings of the LTFRB are only appealable to the DOTC Secretary under Sec. 6 of EO 202 and not to the CA. As Go argued, the aforecited proviso cannot prevail over Sec. 9 (3) of Batas Pambansa Blg. (BP) 129, or the *Judiciary Reorganization Act of 1980*, under which appeals from decisions of quasi-judicial bodies are to be made to the CA.

Ruling of the DBM Secretary & Office of the President

On September 14, 1998, the DBM Secretary denied Go's protest, holding that decisions, orders or resolutions of the LTFRB are appealable to the DOTC Secretary.[14] The DBM reminded Go that based on the department's standards and criteria formulated pursuant to Presidential Decree No. (PD) 985 and Republic Act No. (RA) 6758,[15] the division chief of bureau-level agencies, like the LTFRB, is allocable to Attorney V, SG-25.

In time, Go sought reconsideration, with the following additional argument: LTFRB is similarly situated as another bureau-level agency under DOTC, the CAB, which is listed under Rule 43 of the Rules of Court as among the quasi-judicial agencies whose decisions or resolutions are directly appealable to the CA.

Following the denial of his motion for reconsideration, Go appealed to the Office of the President (OP).

On January 7, 2005, in OP Case No. 99-8880, the OP, agreeing with the ruling of the DBM and the premises holding it together, rendered a Decision dismissing Go's appeal.

The OP would subsequently deny Gonzalo's motion for reconsideration.

Undaunted, Go interposed before the CA a petition for review under Rule 43, his recourse docketed as CA-G.R. SP No. 90665.

Ruling of the Court of Appeals

By Resolution dated August 17, 2005, the appellate court dismissed the petition on

the following procedural grounds: (a) Go resorted to the wrong mode of appeal, Rule 43 being available only to assail the decision of a quasi-judicial agency issued in the exercise of its quasi-judicial functions, as DBM is not a quasi-judicial body; (b) his petition violated Sec. 6 (a) of Rule 43; and (c) his counsel violated Bar Matter Nos. 287 and 1132.

Through the equally assailed January 31, 2006 Resolution, the CA rejected Go's motion for reconsideration.

Hence, the instant petition for certiorari.

The Issues

I

DID RESPONDENT [CA] COMMIT GRAVE ABUSE OF DISCRETION x x x WHEN IT DISMISSED OUTRIGHT THE PETITION ON THE GROUND OF ALLEGED WRONG MODE OF APPEAL THROUGH RULE 43 OF THE RULES OF COURT -

- BY CLAIMING THAT WHEN RESPONDENT OP, WHOSE DECISION IN THE EXERCISE OF ITS QUASI-JUDICIAL POWERS IS APPEALABLE TO THE [CA] UNDER RULE 43, AFFIRMED THE DECISION OF THE DBM, IT WAS NOT IN THE EXERCISE OF ITS QUASI-JUDICIAL POWERS BUT IN THE EXERCISE OF ADMINISTRATIVE SUPERVISION AND CONTROL OVER THE DBM AND THEREFORE APPEAL UNDER RULE 43 CANNOT BE AVAILED OF, -- FOR UNWARRANTEDLY READING WHAT IS NOT IN THE LAW AND NOT BORNE OUT BY THE FACTS OF THE CASE?

II

DID RESPONDENT [CA] COMMIT GRAVE ABUSE OF DISCRETION x x x WHEN IT DISMISSED OUTRIGHT THE PETITION ON THE GROUND OF FAILURE TO IMPLEAD A PRIVATE RESPONDENT -

- BY CLAIMING THAT "NO PRIVATE RESPONDENT IS IMPLEADED IN THE PETITION WHILE IMPLEADING THE [DBM] AND THE [OP], IN VIOLATION OF SECTION 6 (A) RULE 43 OF THE RULES OF COURT, -- WHEN SAID PROVISION COULD NOT BE CONSTRUED AS TO HAVE REQUIRED IMPLEADING A PRIVATE RESPONDENT IN THE PETITION, IF THERE WAS NONE AT ALL?

III

DID THE [CA] COMMIT GRAVE ABUSE OF DISCRETION x x x WHEN IT

DISMISSED OUTRIGHT THE PETITION ON THE GROUND OF FAILURE OF PETITIONER'S COUNSEL TO INDICATE CURRENT IBP AND PTR RECEIPT NOS. AND DATES OF ISSUE -

- BY CLAIMING THAT "PETITIONER'S COUNSEL HAS NOT INDICATED HIS CURRENT IBP AND PTR RECEIPT NUMBERS AND DATES OF ISSUE" -- EVEN AS IN THE MOTION FOR RECONSIDERATION, PETITIONER GO EXPLAINED THAT IT WAS AN HONEST INADVERTENCE AND HE EVEN ATTACHED THERETO COPIES OF COPIES THEMSELVES OF THE CURRENT IBP AND PTR RECEIPTS?

IV

DID RESPONDENT [CA] COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED OUTRIGHT THE PETITION ON TECHNICAL AND FLIMSY GROUNDS -

- THUS SHIRKING FROM ITS BOUNDEN TASK TO ADDRESS A VERY PRESSINIG LEGAL ISSUE OF WHETHER EO 202 SEC. 6, A MERE EXECUTIVE ORDER, DIRECTING APPEAL TO THE DOTC SECRETARY SHOULD PREVAIL OVER A LAW, BP BLG. 129, SEC, 9 (C) AND RULE 43, SEC. 1 DIRECTING APPEAL TO THE COURT OF APPEALS?[16]

The Court's Ruling

There is merit in the petition.

The core issues may be reduced into two, to wit: *first*, the propriety of the dismissal by the CA of Go's Rule 43 petition for review on the stated procedural grounds; and *second*, the validity of the reallocation of rank resulting in the downgrading of position and diminution of salary.

Procedural Issue: Proper Mode of Appeal

As the CA held, Rule 43 is unavailing to Go, the remedy therein being proper only to seek a review of decisions of quasi-judicial agencies in the exercise of their quasi-judicial powers. It added that the primarily assailed action is that of the DBM, which is not a quasi-judicial body. In turn, thus, the affirmatory OP decision was made in the exercise of its administrative supervision and control over the DBM, not in the exercise of its quasi-judicial powers.

The appellate court is correct in ruling that the remedy availed of by Go is improper but not for the reason it proffered. Both Go and the appellate court overlooked the fact that the instant case involves personnel action in the government, i.e., Go is questioning the reallocation and demotion directed by the DBM which resulted in the diminution of his benefits. Thus, the proper remedy available to Go is to question

the DBM denial of his protest before the Civil Service Commission (CSC) which has exclusive jurisdiction over cases involving personnel actions, and not before the OP. This was our ruling involving personnel actions in *Mantala v. Salvador*,[17] cited in *Corsiga v. Defensor*[18] and as reiterated in *Olanda v. Bugayong*.[19] In turn, the resolution of the CSC may be elevated to the CA under Rule 43 and, finally, before this Court. Consequently, Go availed himself of the wrong remedy when he went directly to the CA under Rule 43 without repairing first to the CSC.

Ordinarily, a dismissal on the ground that the action taken or petition filed is not the proper remedy under the circumstances dispenses with the need to address the other issues raised in the case. But this is not a hard and fast rule, more so when the dismissal triggered by the pursuit of a wrong course of action does not go into the merits of the case. Where such technical dismissal otherwise leads to inequitable results, the appropriate recourse is to resolve the issue concerned on the merits or resort to the principles of equity. This is as it should be as rules of procedure ought not operate at all times in a strict, technical sense, adopted as they were to help secure, not override substantial justice.[20] In clearly meritorious cases, the higher demands of substantial justice must transcend rigid observance of procedural rules.

Overlooking lapses on procedure on the part of litigants in the interest of strict justice or equity and the full adjudication of the merits of his cause or appeal are, in our jurisdiction, matters of judicial policy. And cases materially similar to the one at bench should invite the Court's attention to the merits if only to obviate the resulting inequity arising from the outright denial of the recourse. Here, the dismissal of the instant petition would be a virtual affirmance, on technicalities, of the DBM's assailed action, however iniquitous it may be.

Bearing these postulates in mind, the Court, in the greater interest of justice, hereby disregards the procedural lapses obtaining in this case and shall proceed to resolve Go's petition on its substantial merits without further delay. The fact that Go's protest was rejected more than a decade ago, and considering that only legal questions are presented in this petition, warrants the immediate exercise by the Court of its jurisdiction.

Core Issue: Summary Reallocation Improper

Contrary to the DBM's posture, Go maintains that the LTFRB decisions are appealable to the CA pursuant to Sec. 9 (3) of BP 129 and Rule 43 of the Rules of Court. He argues that the grievance mechanism set forth in Sec. 6 of EO 202 cannot prevail over the appeal provisos of a statute and remedial law. Go thus asserts that the summary reallocation of his position and the corresponding salary grade reassignment, i.e., from Attorney VI, SG-26 to Attorney V, SG-25, resulting in his demotion and the downgrading of the classification of his position, are without legal basis.

EO 202 governs appeals from LTFRB Rulings

We understand where Go was coming from since the DBM letter to the DOTC Secretary implementing the summary reallocation of the classification of the position of LTFRB Chief of the Legal Division gave the following to justify the reclassification: