

EN BANC

[G.R. No. 180291, July 27, 2010]

GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) AND WINSTON F. GARCIA, IN HIS CAPACITY AS PRESIDENT AND GENERAL MANAGER OF THE GSIS, PETITIONERS, VS. DINNAH VILLAVIZA, ELIZABETH DUQUE, ADRONICO A. ECHAVEZ, RODEL RUBIO, ROWENA THERESE B. GRACIA, PILAR LAYCO, AND ANTONIO JOSE LEGARDA, RESPONDENTS.

DECISION

MENDOZA, J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking to reverse and set aside the August 31, 2007 Decision^[1] of the Court of Appeals (CA), in CA-G.R. SP No. 98952, dismissing the petition for certiorari of Government Service Insurance System (GSIS) assailing the Civil Service Commission's Resolution No. 062177.

THE FACTS:

Petitioner Winston Garcia (PGM Garcia), as President and General Manager of the GSIS, filed separate formal charges against respondents Dinnah Villaviza, Elizabeth Duque, Adronico A. Echavez, Rodel Rubio, Rowena Therese B. Gracia, Pilar Layco, and Antonio Jose Legarda for Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service pursuant to the Rules of Procedure in Administrative Investigation (RPAI) of GSIS Employees and Officials, III, D, (1, c, f) in relation to Section 52A (3), (20), Rule IV, of the Uniform Rules on Administrative Cases in the Civil Service (URACCS), in accordance with Book V of the Administrative Code of 1987, committed as follows:

That on 27 May 2005, respondent, wearing red shirt together with some employees, marched to or appeared simultaneously at or just outside the office of the Investigation Unit in a mass demonstration/rally of protest and support for Messrs. Mario Molina and Albert Velasco, the latter having surreptitiously entered the GSIS premises;

x x x

x x x

x x x

That some of these employees badmouthed the security guards and the GSIS management and defiantly raised clenched fists led by Atty. Velasco who was barred by Hearing Officer Marvin R. Gatpayat in an Order dated 24 May 2005 from appearing as counsel for Atty. Molina pursuant to Section 7 (b) (2) of R.A. 6713 otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees;

That respondent, together with other employees in utter contempt of CSC Resolution No. 021316, dated 11 October 2002, otherwise known as Omnibus Rules on Prohibited Concerted Mass Actions in the Public Sector caused alarm and heightened some employees and disrupted the work at the Investigation Unit during office hours.^[2]

This episode was earlier reported to PGM Garcia, through an office memorandum dated May 31, 2005, by the Manager of the GSIS Security Department (GSIS-SD), Dennis Nagtalon. On the same day, the Manager of the GSIS Investigation Unit (GSIS-IU), Atty. Lutgardo Barbo, issued a memorandum to each of the seven (7) respondents requiring them to explain in writing and under oath within three (3) days why they should not be administratively dealt with.^[3]

Respondents Duque, Echavez, Rubio, Gracia, Layco, and Legarda, together with two others, submitted a letter-explanation to Atty. Barbo dated June 6, 2005. Denying that there was a planned mass action, the respondents explained that their act of going to the office of the GSIS-IU was a spontaneous reaction after learning that their former union president was there. Aside from some of them wanting to show their support, they were interested in that hearing as it might also affect them. For her part, respondent Villaviza submitted a separate letter explaining that she had a scheduled pre-hearing at the GSIS-IU that day and that she had informed her immediate supervisor about it, attaching a copy of the order of pre-hearing. These letters were not under oath.^[4]

PGM Garcia then filed the above-mentioned formal charges for Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service against each of the respondents, all dated June 4, 2005. Respondents were again directed to submit their written answers under oath within three (3) days from receipt thereof.^[5] None was filed.

On June 29, 2005, PGM Garcia issued separate but similarly worded decisions finding all seven (7) respondents guilty of the charges and meting out the penalty of one (1) year suspension plus the accessory penalties appurtenant thereto.

On appeal, the Civil Service Commission (CSC) found the respondents guilty of the lesser offense of Violation of Reasonable Office Rules and Regulations and reduced the penalty to reprimand. The CSC ruled that respondents were not denied their right to due process but there was no substantial evidence to hold them guilty of Conduct Prejudicial to the Best Interest of the Service. Instead,

x x x. The actuation of the appellants in going to the IU, wearing red shirts, to witness a public hearing cannot be considered as constitutive of such offense. Appellants' (respondents herein) assembly at the said office to express support to Velasco, their Union President, who pledged to defend them against any oppression by the GSIS management, can be considered as an exercise of their freedom of expression, a constitutionally guaranteed right.^[6] x x x

PGM Garcia sought reconsideration but was denied. Thus, PGM Garcia went to the Court of Appeals via a Petition for Review under Rule 43 of the Rules on Civil Procedure.^[7] The CA upheld the CSC in this wise:

The Civil Service Commission is correct when it found that the act sought to be punished hardly falls within the definition of a prohibited concerted activity or mass action. The petitioners failed to prove that the supposed concerted activity of the respondents resulted in work stoppage and caused prejudice to the public service. Only about twenty (20) out of more than a hundred employees at the main office, joined the activity sought to be punished. These employees, now respondents in this case, were assigned at different offices of the petitioner GSIS. Hence, despite the belated claim of the petitioners that the act complained of had created substantial disturbance inside the petitioner GSIS' premises during office hours, there is nothing in the record that could support the claim that the operational capacity of petitioner GSIS was affected or reduced to substantial percentage when respondents gathered at the Investigation Unit. Despite the hazy claim of the petitioners that the gathering was intended to force the Investigation Unit and petitioner GSIS to be lenient in the handling of Atty. Molina's case and allow Atty. Velasco to represent Atty. Molina in his administrative case before petitioner GSIS, there is likewise no concrete and convincing evidence to prove that the gathering was made to demand or force concessions, economic or otherwise from the GSIS management or from the government. In fact, in the separate formal charges filed against the respondents, petitioners clearly alleged that respondents "marched to or appeared simultaneously at or just outside the office of the Investigation Unit in a mass demonstration/rally of protest and support for Mssrs. Mario Molina and Albert Velasco, the latter surreptitiously entered the GSIS premises." Thus, petitioners are aware at the outset that the only apparent intention of the respondents in going to the IU was to show support to Atty. Mario Molina and Albert Velasco, their union officers. The belated assertion that the intention of the respondents in going to the IU was to disrupt the operation and pressure the GSIS administration to be lenient with Atty. Mario Molina and Albert Velasco, is only an afterthought.^[8]

Not in conformity, PGM Garcia is now before us via this Petition for Review presenting the following:

STATEMENT OF THE ISSUES

I

WHETHER AN ADMINISTRATIVE TRIBUNAL MAY APPLY SUPPLETORILY THE PROVISIONS OF THE RULES OF COURT ON THE EFFECT OF FAILURE TO DENY THE ALLEGATIONS IN THE COMPLAINT AND FAILURE TO FILE ANSWER, WHERE THE

RESPONDENTS IN THE ADMINISTRATIVE PROCEEDINGS DID NOT FILE ANY RESPONSIVE PLEADING TO THE FORMAL CHARGES AGAINST THEM.

II

WHETHER THE RULE THAT ADMINISTRATIVE DUE PROCESS CANNOT BE EQUATED WITH DUE PROCESS IN JUDICIAL SENSE AUTHORIZES AN ADMINISTRATIVE TRIBUNAL TO CONSIDER IN EVIDENCE AND GIVE FULL PROBATIVE VALUE TO UNNOTARIZED LETTERS THAT DID NOT FORM PART OF THE CASE RECORD.

III

WHETHER A DECISION THAT MAKES CONCLUSIONS OF FACTS BASED ON EVIDENCE ON RECORD BUT MAKES A CONCLUSION OF LAW BASED ON THE ALLEGATIONS OF A DOCUMENT THAT NEVER FORMED PART OF THE CASE RECORDS IS VALID.

IV

WHETHER FURTHER PROOF OF SUBSTANTIAL REDUCTION OF THE OPERATIONAL CAPACITY OF AN AGENCY, DUE TO UNRULY MASS GATHERING OF GOVERNMENT EMPLOYEES INSIDE OFFICE PREMISES AND WITHIN OFFICE HOURS, IS REQUIRED TO HOLD THE SAID EMPLOYEES LIABLE FOR CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE PURSUANT TO CSC RESOLUTION NO. 021316.

V

WHETHER AN UNRULY MASS GATHERING OF TWENTY EMPLOYEES, LASTING FOR MORE THAN AN HOUR DURING OFFICE HOURS, INSIDE OFFICE PREMISES AND WITHIN A UNIT TASKED TO HEAR AN ADMINISTRATIVE CASE, TO PROTEST THE PROHIBITION AGAINST THE APPEARANCE OF THEIR LEADER AS COUNSEL IN THE SAID ADMINISTRATIVE CASE, FALLS WITHIN THE PURVIEW OF THE CONSTITUTIONAL GUARANTEE TO FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY.

VI

WHETHER THE CONCERTED ABANDONMENT OF EMPLOYEES OF THEIR POSTS FOR MORE THAN AN HOUR TO HOLD AN UNRULY PROTEST INSIDE OFFICE PREMISES ONLY CONSTITUTES THE ADMINISTRATIVE OFFENSE OF VIOLATION OF REASONABLE OFFICE RULES AND REGULATIONS.^[9]

The Court finds no merit in the petition.

Petitioners primarily question the probative value accorded to respondents' letters of