

EN BANC

[G.R. No. 179452, June 11, 2009]

CIVIL SERVICE COMMISSION, PETITIONER, VS. LARRY M. ALFONSO, RESPONDENT.

D E C I S I O N

NACHURA, J.:

This is a Rule 45 petition assailing the May 21, 2007 Decision^[1] and August 23, 2007 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 97284, which reversed Civil Service Commission (CSC) Resolution Nos. 061821^[3] and 061908^[4] dated October 16, 2006 and November 7, 2006, respectively, as well as its Order^[5] dated December 11, 2006, formally charging respondent Larry Alfonso with Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and preventively suspending him from his position as Director of the Human Resources Management Department of the Polytechnic University of the Philippines (PUP).

The facts, as summarized by the CA, are as follows:

Respondent Larry M. Alfonso is the Director of the Human Resources Management Department of PUP. On July 6, 2006, Dr. Zenaida Pia, Professor IV in PUP-Sta. Mesa, and Dindo Emmanuel Bautista, President of *Unyon ng mga Kawani sa PUP*, jointly filed an Affidavit-Complaint against Alfonso for violation of Republic Act (RA) No. 6713, charging the latter with grave misconduct, conduct prejudicial to the best interest of the Service, and violation of Civil Service Law, rules and regulations. The affidavit-complaint was lodged before the Civil Service Commission (CSC). In their affidavit, Dr. Pia and Bautista alleged, among others, that respondent repeatedly abused his authority as head of PUP's personnel department when the latter prepared and included his name in Special Order Nos. 0960 and 1004 for overnight services, ostensibly authorizing him to work for 24 hours straight from May 16 to 20, May 22 to 27 and May 29 to June 2, 2006. As a result thereof, Alfonso made considerable earnings for allegedly working in humanly impossible conditions 24 hours straight daily, for three consecutive weeks.^[6]

In support of their complaint, Dr. Pia and Bautista submitted the following documentary evidence:

1. Special Order No. 1004, s. 2006;
2. Special Order No. 0960, s. 2006;
3. Daily time records of Saturday and Overnight Services of Alfonso;
4. PUP Perm-OT overnight May 2006 payroll register;
5. Xerox copy of check no. 162833 dated May 31, 2006;
6. Summary of Alfonso's Saturday, overnight and overtime schedule;
7. Computation of the number of hours, days and weeks that Alfonso allegedly served; and

8. Explanation of official time, night service, Saturday overtime and overnight services rendered by Alfonso for the month of May.^[7]

On August 10, 2006, the Office of Legal Affairs (OLA) of the CSC issued an order directing Alfonso to submit his counter-affidavit/comment within three (3) days from receipt thereof.

In his Counter-Affidavit^[8] dated August 30, 2006, respondent averred that he only rendered overnight work on May 17, 19, 22, 24, 26, 29 and 31, 2006. He explained that his daily time record explicitly indicates that it covers overnight services pursuant to S.O. No. 1004, series of 2006, and that an entry such as "Day 17, arrival 8:00 PM; Day 18, departure 8:00 AM" connoted only a day of overnight work and not continuous two (2) days of rendition of services.^[9]

The CSC, however, found Alfonso's explanation wanting. On October 25, 2006, it issued Resolution No. 061821 formally charging Alfonso with grave misconduct and conduct prejudicial to the best interest of the Service, and imposing a 90-day preventive suspension against him.^[10]

Aggrieved, respondent filed an omnibus motion for reconsideration of the preventive suspension order and requested a change of venue^[11] from the CSC-Central Office to the CSC-National Capital Region (CSC-NCR). In the motion, he argued that it is the CSC-NCR regional office that has jurisdiction over the matter pursuant to Section 6 of CSC Resolution No. 99-1936, and that to hold otherwise may deprive him of his right to appeal.^[12] The motion was denied.^[13]

Undaunted, Alfonso filed another motion for reconsideration on November 20, 2006, accompanied by a motion to admit his supplemental answer.^[14] This time, however, respondent argued that the CSC had no jurisdiction to hear and decide the administrative case filed against him. According to him, it is the PUP Board of Regents that has the exclusive authority to appoint and remove PUP employees pursuant to the provisions of R.A. No. 8292^[15] in relation to R.A. No. 4670.^[16]

Without ruling on the motion, Assistant Commissioner Atty. Anicia Marasigan-de Lima, head of CSC-NCR, issued an Order^[17] dated December 11, 2006 directing the Office of the President of PUP to implement the preventive suspension order against respondent.^[18]

Dissatisfied, respondent sought relief before the CA *via* a petition for *certiorari* and prohibition.

On May 21, 2007, the CA rendered a Decision^[19] in favor of Alfonso. The pertinent portion of the decision declares:

Applying the foregoing provisions, it appears that the CSC may take cognizance of an administrative case in two ways: (1) through a complaint filed by a private citizen against a government official or employee; and (2) appealed cases from the decisions rendered by Secretaries or heads of agencies, instrumentalities, provinces, cities and municipalities in cases filed against officers and employees under their

jurisdiction.

Indisputably, the persons who filed the affidavit-complaint against petitioner held positions in and were under the employ of PUP. Hence, they cannot be considered as private citizens in the contemplation of the said provision. It is likewise undisputed that the subject CSC resolutions were not rendered in the exercise of its power to review or its appellate jurisdiction but was an ordinary administrative case. Hence, the present case falls short of the requirement that would otherwise have justified the CSC's immediate exercise of its jurisdiction over the administrative case against petitioner.

Even assuming that the CSC may directly entertain the complaints filed with it, the doctrine of exhaustion [of] administrative remedies still prevents it from entertaining the present administrative case. If a remedy within the administrative machinery can still be had by giving the administrative officer concerned every opportunity to decide on the matter that comes within his jurisdiction, then such remedy should be priorly exhausted.

The circumstances in this case do not justify the disregard of the doctrine. Hence, the administrative complaint should have been lodged with the PUP board of regents.

x x x

The CA ratiocinated that since Presidential Decree (P.D.) No. 1341, the law creating PUP, is the special law governing PUP, then it is the Board of Regents (BOR) that should carry out the duties of the investigating committee and has the proper authority to discipline PUP personnel corollary to the BOR's general powers of administration.^[20] According to the CA, the power of the BOR to hire carries with it the corresponding power to discipline PUP personnel pursuant to Section 7(c) of P.D.1341, to wit:

Section 7. The Board of Regents shall have the following powers and duties in addition to his general powers of administration and the exercise of all the powers of a corporation as provided in Section 13 of Act Numbered fourteen hundred fifty-nine as amended, otherwise known as the Philippine Corporation Law:

x x x x

(c) To appoint, on the recommendation of the President of the University, professors, instructors, lecturers and other members of the faculty, and other officials and employees of the University; to fix their compensation, hours of service, and such, other duties and conditions as it may deem proper, any other provisions of the law to the contrary notwithstanding; to grant to them in his discretion, leave of absence under such regulations as it may promulgate, any other conditions of the law to the contrary notwithstanding, and to remove them for cause after an investigation and hearing shall have been had;

x x x

This provision in the PUP Charter is substantially in accord with Section 4(h) of R.A. 8292,

Section 4. *Powers and Duties of Governing Boards.* - The governing board shall have the following specific powers and duties in addition to its general powers of administration and the exercise of all the powers granted to the board of directors of a corporation under Section 36 of Batas Pambansa Blg. 68, otherwise known as the Corporation Code of the Philippines:

x x x x

(h) to fix and adjust salaries of faculty members and administrative officials and employees subject to the provisions of the revised compensation and classification system and other pertinent budget and compensation laws governing hours of service, and such other duties and conditions as it may deem proper; to grant them, at its discretion, leaves of absence under such regulations as it may promulgate, any provisions of existing law to the contrary notwithstanding; and to remove them for cause in accordance with the requirements of due process of law.

Given the foregoing antecedents, the pivotal issue we have to resolve is whether the CSC has jurisdiction to hear and decide the complaint filed against Alfonso.

We find in favor of petitioner.

Section 2(1) and Section 3, Article IX-B of our Constitution, are clear, as they provide that:

Sec. 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

Sec. 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.

As the central personnel agency of the government,^[21] the CSC has jurisdiction to supervise the performance of and discipline, if need be, all government employees, including those employed in government-owned or controlled corporations with original charters such as PUP. Accordingly, all PUP officers and employees, whether they be classified as teachers or professors pursuant to certain provisions of law, are deemed, first and foremost, civil servants accountable to the people and answerable to the CSC in cases of complaints lodged by a citizen against them as public servants. Admittedly, the CSC has appellate jurisdiction over disciplinary cases

decided by government departments, agencies and instrumentalities. However, a complaint may be filed directly with the CSC, and the Commission has the authority to hear and decide the case, although it may opt to deputize a department or an agency to conduct the investigation. Specifically, Sections 9(j) and 37(a) of P.D. 807, otherwise known as the Civil Service Law of 1975, provide:

SECTION 9. Powers and Functions of the Commission. - The Commission shall administer the Civil Service and shall have the following powers and function:

x x x x

(j) Hear and decide administrative disciplinary cases **instituted directly with it** in accordance with Section 37 **or brought to it on appeal**;

x x x x

Section 37. Disciplinary Jurisdiction. - (a) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from Office. **A complaint may be filed directly with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation.** The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.^[22]

We are not unmindful of certain special laws that allow the creation of disciplinary committees and governing bodies in different branches, subdivisions, agencies and instrumentalities of the government to hear and decide administrative complaints against their respective officers and employees. Be that as it may, we cannot interpret the creation of such bodies nor the passage of laws such as - R.A. Nos. 8292 and 4670 allowing for the creation of such disciplinary bodies - as having divested the CSC of its inherent power to supervise and discipline government employees, including those in the academe. To hold otherwise would not only negate the very purpose for which the CSC was established, *i.e.* to instill professionalism, integrity, and accountability in our civil service, but would also impliedly amend the Constitution itself.

In *Office of the Ombudsman v. Masing*,^[23] we explained that it is error to contend that R.A. No. 4670 conferred exclusive disciplinary authority on the Department of Education, Culture and Sports (DECS, now Department of Education or DepEd) over public school teachers and to have prescribed exclusive procedure in administrative investigations involving them.^[24] Hence, it is equally erroneous for respondent to argue that the PUP Charter and R.A. No. 8292 in relation to R.A. 4670 confer upon the BOR of PUP exclusive jurisdiction to hear disciplinary cases against university professors and personnel.

In *Civil Service Commission v. Sojor*,^[25] an administrative case was filed against a state university president. There, we struck down the argument that the BOR has