

## EN BANC

**[ G.R. No. 177244, November 20, 2007 ]**

**TEODULO V. LARGO, PETITIONER, VS. THE COURT OF APPEALS,  
THE CIVIL SERVICE COMMISSION, THE NATIONAL POWER  
CORPORATION AND ALAN OLANDESCA, RESPONDENTS.**

### DECISION

**YNARES-SATIAGO, J.:**

Assailed in this petition for review<sup>[1]</sup> is the March 23, 2007 Decision<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 84984 which affirmed the July 4, 2003 Resolution<sup>[3]</sup> of the Civil Service Commission (CSC) finding petitioner guilty of grave misconduct and imposing upon him the penalty of dismissal from service.

On December 17, 1997, petitioner Teodulo V. Largo, Section Chief, Administrative/General Services of the National Power Corporation (NPC) in Angat River Hydroelectric Power Plant (ARHEP), Norzagaray, Bulacan, was administratively charged with grave misconduct, conduct prejudicial to the best interest of the service, oppression, or unlawful exercise of power by an officer or employee as to harm anyone in his person or property while purporting to act under the color of authority and willfull violation of NPC Circular No. 97-66, which prohibits personnel from carrying firearms inside the NPC premises. These charges were based on the complaint filed by Alan A. Olandesca (Olandesca), former property officer of the NPC at ARHEP.

The NPC investigation revealed that on October 30, 1997, petitioner and Olandesca attended a birthday party where petitioner claimed to have been humiliated by Olandesca who threw a piece of paper at him and shouted, "*Ikaw ang magnanakaw.*" At around 5:05 in the afternoon of the same day, petitioner went to the quarters of Olandesca at ARHEP shouting invectives and threatening to kill Olandesca. Petitioner proceeded to the dirty kitchen at the back of the quarters where he met Olandesca's wife. While they were conversing, a dog suddenly appeared and barked at petitioner. Claiming to have been frightened by the incessant barking of the dog which was about to attack him, petitioner fired two shots which scared the wife of Olandesca, as well as his 2 children, sister-in-law and mother-in law who were then gathered at the dirty kitchen. The first shot hit the flooring, while the other hit the water hose. Unable to find Olandesca, petitioner left the compound.<sup>[4]</sup>

Meanwhile, petitioner retired from service effective January 1, 1998 under the NPC SDP Retirement Plan.<sup>[5]</sup>

On March 19, 1998, the NPC Regional Board of Inquiry & Discipline conducted a pre-hearing conference. On motion of Olandesca, the NPC President approved the transfer of the formal investigation to the Board of Inquiry and Discipline of the NPC

Head Office, which recommended that petitioner be held liable for simple misconduct with the minimum penalty of suspension for one month and one day to two months.<sup>[6]</sup>

In his Memorandum<sup>[7]</sup> dated January 3, 2001, President and Chief Executive Officer Federico Puno found petitioner guilty of grave misconduct and imposed upon him the penalty of dismissal from service.

On petitioner's motion for reconsideration, NPC President Jesus N. Alcorido reduced the penalty to one year suspension, taking into consideration that this was petitioner's first offense, the absence of physical harm caused by the shots he fired, his 21 years of service, his consistent very satisfactory performance, and Olandesca's act of humiliating him prior to the incident. Considering, however, the retirement of petitioner, the NPC directed the execution of the penalty by deducting an amount equivalent to one year suspension without pay, from his retirement benefits.<sup>[8]</sup>

Petitioner appealed to the CSC which on July 4, 2003, affirmed the finding of the NPC that petitioner was guilty of grave misconduct but modified the penalty to dismissal from service. The dispositive portion of the CSC Resolution, provides:

WHEREFORE, the appeal of Teodulo V. Largo from the Decision dated August 15, 2001 of National Power Corporation President Jesus N. Alcorido, finding him guilty of Grave Misconduct, is DISMISSED. The penalty of one-year suspension to be executed by deducting an amount equivalent to one-year salary from the retirement benefits of Largo is hereby MODIFIED to dismissal from service. Largo's dismissal from the service carries with it cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification for re-employment in the government service.<sup>[9]</sup>

On June 21, 2004, the CSC denied petitioner's motion for reconsideration in Resolution No. 040690.<sup>[10]</sup>

On petition with the Court of Appeals, the latter rendered a decision affirming the Resolution of the CSC. The decretal portion thereof provides:

WHEREFORE, the instant petition is DENIED and the assailed Orders of the Civil Service Commission dated July 4, 2003 and June 21, 2004 are AFFIRMED.

SO ORDERED.<sup>[11]</sup>

Hence, the instant petition.

Petitioner contends that the administrative case against him should be dismissed, the same having been rendered academic by his retirement from service. He further claims that there is no case against him and, assuming that he is guilty of an administrative offense, his liability could only be for simple misconduct. Petitioner further prays for the imposition of a lighter penalty instead of dismissal from service.

The issues for resolution are: (1) whether the retirement of petitioner rendered moot the resolution of the instant administrative case; and (2) whether petitioner was validly dismissed for serious misconduct.

The settled rule in this jurisdiction is that cessation from office by reason of resignation,<sup>[12]</sup> death, or retirement<sup>[13]</sup> does not warrant the dismissal of the administrative case filed against a public officer while he or she was still in the service, or render the said case academic. The jurisdiction of the disciplining authority attaches at the time of the filing of the administrative complaint and is not lost by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. This rule applies to all employees in the civil service,<sup>[14]</sup> mindful of the constitutional precept that public office is a public trust for which all government employees and officials are accountable to the people. The rationale for this doctrine, as applied to government employees and officials in the judiciary, was explained in *Perez v. Abiera*<sup>[15]</sup> in this wise:

[T]he jurisdiction that was Ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. The Court retains jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implications. For, what remedy would the people have against a civil servant who resorts to wrongful and illegal conduct during his last days in office? What would prevent a corrupt and unscrupulous government employee from committing abuses and other condemnable acts knowing fully well that he would soon be beyond the pale of the law and immune to all administrative penalties? If only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.

The retirement of petitioner effective January 1, 1998, did not render moot the instant case. The filing of the administrative complaint against petitioner on December 17, 1997, prior to his retirement, effectively conferred upon the NPC, the CSC, and this Court, the jurisdiction to resolve the case until its conclusion. Hence, the guilt or innocence of petitioner can be validly addressed by the Court in the instant administrative case.

Anent the acts constituting the administrative charge, we find that the positive and categorical declarations of Olandesca's witnesses<sup>[16]</sup> prevail over the negative allegation of petitioner that he did not utter threatening words when he went to the quarters of Olandesca. It is settled that denial is inherently a weak defense. To be believed, it must be buttressed by a strong evidence of non-culpability; otherwise, such denial is purely self-serving and without evidentiary value.<sup>[17]</sup> Like the defense of alibi, petitioner's denial crumbles in the light of the positive declarations of the

witnesses that petitioner uttered threats to kill Olandesca. It was established that petitioner entered the ARHEP, proceeded to Olandesca's quarters, specifically to the dirty kitchen where the wife, two children, sister-in-law, and mother-in-law of Olandesca were gathered. Thereat, petitioner fired his gun twice and hurled threats to kill Olandesca. His acts of entering the quarters without permission, hurling threats, and discharging a gun, even assuming that the same were merely to scare a dog, are blatant displays of arrogance and recklessness and do not speak well of his character as a public officer.

However, the administrative offense committed by petitioner is not "misconduct." To constitute misconduct, the act or acts must have a direct relation to and be connected with the performance of his official duties. In *Manuel v. Calimag, Jr.*,<sup>[18]</sup> it was held that:

Misconduct in office has been authoritatively defined by Justice Tuazon in *Lacson v. Lopez* in these words: "Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer x x x x It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office x x x More specifically, in *Buenaventura v. Benedicto*, an administrative proceeding against a judge of the court of first instance, the present Chief Justice defines misconduct as referring 'to a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer.'"

x x x x

In *Salcedo v. Inting* we also ruled –

It is to be noted that the acts of the respondent judge complained of have no direct relation with his official duties as City Judge. The misfeasance or malfeasance of a judge, to warrant disciplinary action must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of said judge.

In *Milanes v. De Guzman*,<sup>[19]</sup> a mayor collared a person, shook him violently, and threatened to kill him in the course of a political rally of the Nacionalista Party where said mayor was acting as the toastmaster. The Court held that the acts of the mayor cannot come under the class of the administrative offense of misconduct, considering that as the toastmaster in a non-governmental rally, he acted in his private capacity, for said function was not part of his duties as mayor. In *Amosco v. Magro*,<sup>[20]</sup> the respondent Judge was charged with grave misconduct for his alleged failure to pay the amount of P215.80 for the purchase of empty Burma sacks. In dismissing the case, the Court sustained, among others, the argument of respondent Judge that the charge did not constitute misconduct because it did not