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[G.R. NO. 162805, January 23, 2006]

ROMEO E. CABALITAN, PETITIONER, VS. DEPARTMENT OF AGRARIAN REFORM AND CIVIL SERVICE COMMISSION, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

This is a petition for review seeking reversal of (1) the **Decision**[1] dated September 30, 2003 of the Court of Appeals in CA-G.R. SP No. 75354, and (2) the **Resolution**[2] dated March 11, 2004 denying reconsideration. The Court of Appeals had affirmed the decision of the Civil Service Commission that: (1) the petitioner actively engaged in the sale and distribution of fake Unified Vehicular Volume Reduction Program (UVVRP) exemption cards; (2) the petitioner used official time to peddle the cards to his co-employees; and (3) the petitioner is guilty of conduct prejudicial to the best interest of the service for which should be imposed on him the penalty of nine months suspension from the service.

Officemates of petitioner in the Department of Agrarian Reform (DAR) filed a complaint alleging that the petitioner sold to them, for five hundred pesos (P500.00), a card ostensibly exempting the holder from the Unified Vehicular Volume Reduction Program (UVVRP), a scheme of the Metropolitan Manila Development Authority (MMDA) to decongest traffic by prohibiting motor vehicles on certain days from traversing the streets. The exemption cards sold by petitioner were all a sham. Hence, they demanded reimbursement but the petitioner made all kinds of excuses to avoid their demand.

The DAR Secretary formally charged petitioner with grave misconduct and found petitioner guilty. Petitioner asked for reconsideration, which was denied.

Petitioner then appealed to the Civil Service Commission (CSC) and assailed the sufficiency of the evidence establishing his guilt. Petitioner claimed that it was his acquaintance, Joseph Tan, who sold him the UVVRP exemption card. When his officemates saw his card, they told him that they also want to acquire one. Hence, he set a meeting where Tan personally received payment for the exemption cards.

In Resolution No. 020465 dated March 25, 2002,[3] the CSC found petitioner guilty of grave misconduct and ordered his dismissal from the service. The CSC observed that the evidence on record fully established that petitioner actively engaged and showed extraordinary eagerness in selling the UVVRP exemption cards to his officemates, right in their offices and during office hours[4] in violation of civil service laws which require a government employee to devote his entire working time to the performance of his official functions and duties and not perform other

activities for his personal interest.[5]

Upon petitioner's motion for reconsideration, however, the CSC modified its ruling in Resolution No. 030021 dated January 8, 2003,[6] and found petitioner guilty only of conduct prejudicial to the best interest of the service and imposed on him the penalty of suspension. More particularly, the modified CSC resolution reads as follows:

> WHEREFORE, the motion for reconsideration of Romeo E. Cabalitan is hereby DENIED for lack of merit. Accordingly, CSC Resolution No. [020465] dated March 25, 2002 is affirmed but with the modification that Romeo E. Cabalitan is found guilty only of Conduct Prejudicial to the Best Interest of the Service for which he (sic) is imposed the penalty of nine (9) months suspension from the service. Considering, however, that his appointment as Legal Officer II under temporary status had already expired on December 31, 2000 and that the same was never renewed, the penalty herein imposed is deemed served.[7]

In modifying its earlier ruling, the CSC said that the sale of spurious exemption cards is alien and unrelated to the official functions and duties of the petitioner; hence, he did not commit grave misconduct, a serious offense punishable by dismissal from the service. The CSC added, however, that it cannot be said that the petitioner was entirely free from any administrative liability since the sale of exemption cards during office hours violated the Civil Service Law and constituted the offense of conduct prejudicial to the best interest of the service.[8]

Petitioner sought review of the CSC resolution by the Court of Appeals which, however, affirmed the CSC ruling. Still dissatisfied, the petitioner filed the instant petition, raising the following issues:

> I. WHETHER THE COURT OF APPEALS GRAVELY MISAPPREHENDED THE EVIDENCE AND MISAPPRECIATED THE FACTS WHEN IT RULED THAT THE EVIDENCE POINTED TO PETITIONER AS RESPONSIBLE FOR THE SALE AND DISTRIBUTION OF FAKE UNIFIED VEHICULAR VOLUME REDUCTION PROGRAM (UVVRP) EXEMPTION CARDS DESPITE THE FACT THAT THE SUBJECT TRANSACTION CONCERNING THE EXEMPTION CARDS WAS BETWEEN COMPLAINANT DAR'S WITNESSES AND MR. JOSEPH TAN, AND NOT WITH PETITIONER.
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> II. WHETHER THE COURT OF APPEALS SERIOUSLY ERRED IN NOT HOLDING THAT THE PENALTY OF SUSPENSION IMPOSED BY THE CIVIL SERVICE COMMISSION ON PETITIONER IS NOT COMMENSURATE WITH THE ALLEGED OFFENSE COMMITTED BY HIM.
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> III. WHETHER THE COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT PETITIONER IS ENTITLED TO HIS BACK SALARIES AND/OR BACKWAGES NOT ONLY AS A RESULT OF THE WRONGFUL CHARGE AGAINST HIM BUT ALSO BECAUSE INCONTROVERTIBLE EVIDENCE EXISTS THAT PETITIONER WAS ALLOWED BY HIS SUPERIORS TO PERFORM SERVICES AND HAD ACTUALLY

DISCHARGED SUCH SERVICES FOR THE PERIOD JANUARY 1, 2001 TO JULY 31, 2001 AND THAT HIS CONTRACT OF EMPLOYMENT FOR SUCH PERIOD HAD BEEN RENEWED.[9]

After considering these issues, we find that the instant petition lacks merit.

Firstly, petitioner urges this Court to review the rulings of the DAR, the CSC, and the Court of Appeals, all finding him administratively liable for selling and distributing spurious exemption cards during office hours. He contends that these fact-finding administrative and judicial entities failed to appreciate his defense that the sale and distribution of the UVVRP exemption cards was actually between the complainants and Joseph Tan. In effect, the petitioner asks us to scrutinize once again the weight and veracity of the testimonies of the parties.

Time and again, we have said that a petition under Rule 45 is limited only to questions of law. We could not entertain factual questions already submitted to and ruled upon by the trial courts. Moreover, in a petition for certiorari, normally we review only those committed by the Court of Appeals, and not directly those of the trial court or a quasi-judicial agency, tribunal or officer which rendered the decision in the first instance.[10]

As repeatedly held, we accord great respect to the findings of administrative agencies because they have acquired expertise in their jurisdiction, and we will refrain from questioning their findings, particularly when these are affirmed by the appellate tribunal. We are not inclined to re-examine and re-evaluate the probative value of the evidence proffered in the concerned forum, which had formed the basis of the latter's impugned decision, resolution or order, absent a clear showing of arbitrariness and want of any rational basis therefor.[11]

In any event, as observed by the DAR, the positive declaration of the complainants that the petitioner was the one who approached them and received their money, undermines the petitioner's bare denials.[12]

In its Resolution affirming the Decision of the DAR, the CSC further ruled that the evidence on record fully established that it was the petitioner himself who sold the UVVRP exemption cards to his officemates. He transacted business with his officemates right in their offices and during office hours. Two witnesses for the prosecution, Messrs. Jose Marie Hernando and Gemino Villangca, testified on these points.[13] We are not persuaded by petitioner's plea to reverse these factual findings.

On the second issue, Section 46, Chapter 6, Subtitle A, Title I, Book V of Executive Order No. 292,[14] provides that the offense of conduct prejudicial to the best interest of the service is a ground for disciplinary action. Further, CSC Memorandum Circular No. 19-99[15] classifies it as a grave offense which carries the penalty of suspension (6 mos. 1 day to 1 year) for the first offense, and dismissal for the second offense.[16]

Moreover, we agree with the appellate court's findings that petitioner's contract of employment was not renewed for the period January 1 to July 31, 2001. It appears