

SECOND DIVISION

[G.R. NO. 149580, March 16, 2005]

**ROSARIO DALTON-REYES, PETITIONER, VS. COURT OF APPEALS,
HON. ANIANO A. DESIERTO, MA. ELENA MIRIAM A.
CANDELARIA, MERJELINA L. ALGODON AND ERLINDA S. ROJAS,
RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

Before us is a petition for review of the Resolution^[1] of the Court of Appeals (CA) denying the Omnibus Motion to File Notice of Appeal and for Extension to File Petition for Review filed by petitioner Rosario Dalton-Reyes, and the Resolution of the appellate court denying the motion for reconsideration thereof.

Petitioner Rosario Dalton-Reyes was a Stenographic Reporter III of the Evaluation and Preliminary Investigation Bureau (EPIB), Preliminary Investigation, Administrative Adjudication and Monitoring Office (PAMO), Office of the Ombudsman, while private respondents Ma. Elena Miriam A. Candelaria, Merjelina L. Algodon, and Erlinda Rojas are Associate Graft Investigation Officers of the PAMO Screening Committee.

The Antecedents

On August 5, 1999, the petitioner filed a grievance complaint^[2] with the Office of the Ombudsman against the private respondents, alleging that the latter committed "harassment/oppression and gross discourtesy in the course of official duties." On September 2, 1999, the private respondents separately filed their respective Comment/Answer with Counter-Charge to the petitioner's complaint. They denied the petitioner's charges and alleged that it was the latter who was arrogant, discourteous, troublesome, disobedient and dishonest. The private respondents also countered that the petitioner had bad working habits, was a habitual absentee, catered to the needs of her daughters even while in the office, and was one who isolated herself from the others because she thinks she is a prima donna. The private respondents further alleged that during her detail to the Screening Committee, the petitioner would perform her duties only at her convenience. They also alleged that the petitioner even falsified her Daily Time Record (DTR), particularly the entry on June 10, 1999, by "punching in and out" even without actually reporting for work on the said day.^[3]

After the Conciliatory Conference between the parties, the Grievance Committee submitted its Memorandum Report recommending that the grievance proceedings be terminated and closed, and that the counter-charges made by the private respondents in their respective answers be referred to the PAMO for appropriate action.^[4] On January 14, 2000, Ombudsman Aniano A. Desierto approved the

recommendation, and referred the complaint to the PAMO in a Memorandum dated February 7, 2000.^[5]

The Ombudsman rendered a Decision on February 19, 2001 dismissing the petitioner from the service. The dispositive portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered finding respondent **ROSARIO D. REYES, Guilty** of **DISHONESTY** and **CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE**, for which the penalty of **DISMISSAL FROM THE SERVICE**, with **TEMPORARY DISQUALIFICATION FOR RE-EMPLOYMENT IN THE GOVERNMENT SERVICE, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATION, FOR A PERIOD OF ONE (1) YEAR FROM THE FINALITY OF THIS DECISION** is hereby imposed pursuant to Sections 52 and 58(a), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service. However, **no cancellation of Civil Service Eligibility, nor Forfeiture of Leave and Retirement Credits** shall be imposed on the respondent.

SO ORDERED.^[6]

The Ombudsman ruled that as clearly established and substantiated by evidence, the petitioner was guilty of dishonesty for tampering her June 10, 1999 DTR, and for collecting the corresponding salary for that day. Moreover, the petitioner deliberately made it appear that she reported for work on June 10, 1999 when, in fact, she left the office after punching in her DTR without permission from her immediate superior, in order to enroll at the Pamantasan ng Lungsod ng Maynila (PLM). The Ombudsman noted that dishonesty and falsification of official document are classified as grave offenses under the Uniform Rules on Administrative Cases, punishable by dismissal from service even for the first offense.^[7]

Furthermore, the Ombudsman found the testimonies of the witnesses sufficient to establish that the petitioner's work attitude amounted to conduct prejudicial to the best interest of the service. He found that the petitioner failed to live up to the mandate that public officers and employees must perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill.^[8]

On March 12, 2001, the petitioner filed a motion for reconsideration^[9] of the decision, and a supplement^[10] thereto on March 14, 2001. In the said motion, the petitioner argued that the hearing officer failed to consider the following: (1) that there was no wrongful intent on her part to injure the government; (2) that the decision was based on the conclusions of the witnesses and not on the facts proven; (3) that the alleged acts of discourtesy, disrespect or resentment and the time when they occurred were not established; (4) that the charges have already prescribed; (5) that there was no evidence of actual prejudice to the government; (6) that the penalty imposed was too harsh and oppressive; and (7) that the decision did not consider any of the following mitigating circumstances: (a) she did not intend to commit so grave a wrong; (b) she has not been previously charged or penalized with any administrative sanctions; (c) her performance evaluation was satisfactory; and (d) that she has served the government for fourteen (14) years.

The petitioner's motion for reconsideration was denied in an Order^[11] dated March 22, 2001. According to the Ombudsman, the element of wrongful intent to injure a third person is not controlling in this case because the administrative offense of dishonesty goes to the very core of the fitness of a public officer or employee to remain in office. Moreover, the petitioner's claim of leaving the office in order to enroll at the PLM for a master's degree does not erase nor mitigate her liability.

The Ombudsman maintained that the penalty imposed on the petitioner was neither harsh nor oppressive, considering that the inherent administrative disabilities of perpetual disqualification for re-employment and forfeiture of benefits, provided under Section 58(a)^[12] of the Uniform Rules on Administrative Cases in the Civil Service, were not imposed. Any mitigating circumstance that may have existed in favor of the petitioner was offset by the presence of an aggravating circumstance. Pursuant to Section 55^[13] of the same rules, since the petitioner was found guilty of two charges, the penalty imposed was that corresponding to the most serious charge, while the other charge was considered an aggravating circumstance. In fine, the Ombudsman reiterated that the evidence effectively established the petitioner's administrative guilt.^[14]

The petitioner received a copy of the order on May 24, 2001.^[15] On June 11, 2001, she filed an Omnibus Motion to File Notice of Appeal and For Extension to File Petition for Review with the CA.

On June 22, 2001, the CA issued a Resolution^[16] denying the said motion, thus:

Considering that the motion itself shows that the assailed Order of the Ombudsman was received by petitioner on May 24, 2001, hence when the motion for extension of time was filed on June 11, 2001, the filing thereof was already beyond the 15-day reglementary period to file petition for review as prescribed by Rule 43, [S]ec. 4, Rules of Civil Procedure and additionally, that said motion does not contain an affidavit of service as required under Sec. 11, Rule 13 or any written explanation, the motion is **DENIED**, and this case is accordingly **DISMISSED**.

SO ORDERED.^[17]

The petitioner filed a motion for reconsideration of the said resolution which the CA, likewise, denied in a Resolution^[18] dated August 17, 2001.

Hence, this petition for review.

THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE MOTION FOR RECONSIDERATION AND THE OMNIBUS MOTION TO FILE NOTICE OF APPEAL AND EXTENSION OF TIME TO FILE PETITION FOR REVIEW ON A MERE TECHNICALITY AND THEREBY SEVERELY AFFECTING AND DEFEATING THE SUBSTANTIAL RIGHTS OF YOUR PETITIONER-APPELLANT.^[19]

Simply stated, the issue in this case is whether the appellate court erred

in denying the motion for extension of time to file the petition for review filed by the petitioner despite the fact that the reglementary period for filing the petition for review has already lapsed.

The petitioner argues that the delay in the filing of the appeal does not justify its dismissal, considering that she did not intend to delay the administration of justice and such delay did not prejudice the other party. She maintains that the failure to attach an affidavit of service was not sufficient ground to dismiss the appeal since she was able to furnish the respondents a copy of the motion through the Central Records Division of the Office of the Ombudsman.

The petitioner stresses that she has never been subjected to any disciplinary action in the past and has received satisfactory ratings with respect to the performance of her duties. She posits that her act of going to the PLM to enroll for a master's degree did not prejudice the government but will, in fact, benefit the latter. Finally, she maintains that the penalty meted upon her is disproportionate to her alleged infractions and clearly has no basis.^[20]

The Office of the Ombudsman, for its part, maintains that the CA correctly denied the motion for extension of time to file a petition for review and dismissed the case outright, considering that the petitioner failed to file the same within the reglementary period, and even failed to attach proof of service thereof.^[21] It avers that the petitioner did not allege anything that would warrant the reversal of the resolution of the CA.^[22]

In her reply, the petitioner denies having admitted that she falsified her DTR for June 1999. She justifies the payment of her salary for June 10, 1999 by stating that she still had leave credits then, and, as such, would still be paid her salary for that day even if she had been absent. The petitioner asserts that when she filed the appeal with the CA, she did so on her own because she could not find a competent lawyer to assist her at the time. She claims that she did not know anything about the Rules of Procedure, which was why the 15-day period had already lapsed when she filed the motion for extension of time to file her petition.^[23]

The Ruling of the Court

The petition is meritorious.

At the outset, it should be emphasized that a litigant who appears by himself and conducts his own litigation will be bound by the same rules of procedure and evidence as those applicable to a party appearing through counsel; otherwise, ignorance will be unjustifiably rewarded.^[24] Hence, the petitioner cannot just be excused from complying with the rules for filing an appeal simply because she was not assisted by a lawyer at the time she did so.

It is doctrinally entrenched that appeal is not a constitutional right, but a mere statutory privilege. Hence, parties who seek to avail themselves of it must comply with the statutes or rules allowing it.^[25] The Rules of Civil Procedure provide, among others, that the appeal should be taken within fifteen (15) days from the notice of judgment or from the denial of the motion for reconsideration, and that, upon motion and payment of the docket fees before the expiration of the