

EN BANC

[G.R. NO. 167762, December 15, 2005]

BATANGAS STATE UNIVERSITY, PETITIONER, VS. NESTOR BONIFACIO, RESPONDENT.

DECISION

YNARES-SANTIAGO, J.:

This petition for review assails the April 11, 2005 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 49444 which set aside CSC Resolution Nos. 981443^[2] and 982540^[3] affirming the dismissal from the government service and denying the motion for reconsideration, of respondent Nestor Bonifacio, respectively.

Respondent was one of the faculty members of Batangas State University^[4] who held protest rallies near the main campus of the university and at the provincial capitol of Batangas to air their grievances against its president, Dr. Ernesto M. De Chavez. He was also among the faculty members who filed a complaint against De Chavez and other school officials for alleged graft and corruption with the Senate Blue Ribbon Committee, which referred the same to the Presidential Commission Against Graft and Corruption (PCAGC).^[5]

On October 10, 1994, Dr. Rolando Lontok, Vice President for Academic Affairs, issued a memorandum reassigning respondent to the office of the president. As the school semester would end on October 13, 1994, respondent requested De Chavez if he could report to his office only after the said date, to which the latter agreed.^[6]

Meanwhile, respondent continued to discharge his duties as a teacher as well as coach of the university's basketball team.^[7]

On January 10, 1995, De Chavez issued Office Order No. 1, Series of 1995 dropping respondent from the rolls on the ground of absence without official leave (AWOL) for more than 30 days.^[8]

Respondent claims that his dismissal from the service for being on AWOL has no basis because he was attending to his job as a teacher and coach of the university's basketball team. His detail to the office of the president and the subsequent dropping from the rolls was malicious and in retaliation to his filing of a complaint against De Chavez and other school officials.^[9] In fact, the detail order did not specify the functions he was to discharge and he was always warned that he would be dropped from the rolls soon. To show that he was never absent, respondent presented his Daily Time Records (DTR) from October to December 1994, Logbook of attendance from November 2 to December 1994, and Letters dated October 27, 1994 and November 10, 1994 from Romy A. Emplica, the school's Sports Coordinator. Further, he contends that his DTRs were not accepted by the personnel

office because his immediate supervisor in the office of the president unjustifiably refused to sign them.^[10]

On the other hand, De Chavez denies the allegations of harassment. He explains that respondent's transfer to his office was upon the request of Roberto Kalalo, his Chief of Staff, as he was the most qualified employee to perform the task. However, despite receipt of the memorandum order, respondent did not report to his office, thus, he was dropped from the rolls after incurring absences without official leave for more than 30 days.^[11]

The Civil Service Regional Office (CSRO) No. IV upheld the termination of the respondent from the service.^[12]

The Civil Service Commission, in CSC Resolution No. 981443 dated June 11, 1998, dismissed the appeal and affirmed the assailed order. Respondent's motion for reconsideration was also denied in CSC Resolution No. 982540 dated September 29, 1998.^[13]

Aggrieved, respondent filed a petition for review under Rule 43 of the Rules of Court before the Court of Appeals which reversed CSC Resolution Nos. 981443 and 982540. The dispositive portion of the decision reads:

WHEREFORE, the PETITION FOR REVIEW is GIVEN DUE COURSE.

CSC RESOLUTIONS NOS. 981443 AND 982540 are SET ASIDE.

Petitioner NESTOR BONIFACIO is REINSTATED as a drafting instructor of respondent PABLO BORBON MEMORIAL INSTITUTE OF TECHNOLOGY, now BATANGAS STATE UNIVERSITY, with full back salaries (i.e., the compensation fixed for his position and prevailing at the time of reinstatement, together with the allowances and benefits appurtenant thereto, as well as the standard or automatic general increases in salary decreed thereafter from time to time, inclusive of benefits for sick leave and vacation leave counted from the date of illegal dismissal, and all benefits arising from automatic promotions, if any, and increases in salary during the period of his illegal dismissal) limited to five (5) years.

SO ORDERED.^[14]

Hence, this petition for review based on the following ground:

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN REINSTATING RESPONDENT BASED ON THE "EQUITIES OF THE SITUATION" AND IN REVERSING THE CIVIL SERVICE COMMISSION RESOLUTIONS FINDING THAT HIS CONTINUOUS ABSENCE AT HIS POST FOR MORE THAN THIRTY WORKING DAYS JUSTIFIED HIS DISMISSAL FROM THE SERVICE.^[15]

Petitioner contends that the Court of Appeals erred in disregarding the finding of fact of the Civil Service Commission that respondent did not report to his new assignment, in violation of the rule on finality of factual findings of administrative or quasi-judicial agencies. By relying solely on speculation, it further erred in ruling

that De Chavez and other school officials dealt with the respondent in bad faith. Petitioner also argues that the Court of Appeals erred in applying "equity" despite the Omnibus Civil Service Rules and Regulations which warranted the dropping from the rolls of an employee who incurs absences without official leave for more than 30 days.

In fine, the issue to be resolved is whether or not respondent can be considered AWOL for more than 30 days for his alleged failure to report to his new assignment in the office of the president.

Undoubtedly, the above issue is one of fact as it assails the factual finding of the Court of Appeals that respondent had not gone AWOL. Basic is the rule in this jurisdiction that only questions of law may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court. The jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive,^[16] save for the most cogent and compelling reason, like when the factual findings of the Court of Appeals and the trial court are contradictory.^[17]

Indeed, in the case at bar, the findings of the Civil Service Commission and its conclusion based on the said findings contradict those of the appellate court. However, upon careful review of the records, we find no grounds to grant the petition. We, thus, affirm the decision of the Court of Appeals.

Section 2(3), Article IX-B of the Constitution provides that "no officer or employee of the civil service shall be removed or suspended except for cause provided by law." The Administrative Code of 1987 and the Civil Service Law echo this constitutional edict of security of tenure of the employees in the civil service. The guarantee of security of tenure is an important cornerstone of the civil service system because it secures for a faithful employee permanence of employment, at least for the period prescribed by law, and frees the employee from the fear of political and personal reprisals.^[18]

With this mandate, we held in *Government Service Insurance System v. Court of Appeals*^[19] that said constitutional prohibition is a guaranty of both procedural and substantive due process and that the burden of proof is upon the employer to show the validity of the dismissal and not upon the employee to prove otherwise.

We find that petitioner failed to discharge this burden.

Petitioner dropped respondent from the rolls based on Section 63, Rule XVI of the Omnibus Civil Service Rules and Regulations which pertinently provides:

Sec. 63. *Effect of absences without approved leave.* - An official or employee who is continuously absent without approved leave for at least thirty (30) calendar days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. He shall, however, be informed, at his address appearing on his 201 files of his separation from the service, not later than five (5) days from its effectivity.