

SECOND DIVISION

[G.R. No. 139302, October 28, 2002]

**EDUARDO P. CORSIGA, FORMER DEPUTY ADMINISTRATOR,
NATIONAL IRRIGATION ADMINISTRATION, PETITIONER, VS.
HON. QUIRICO G. DEFENSOR, PRESIDING JUDGE, REGIONAL
TRIAL COURT, BRANCH 36, ILOILO CITY, AND ROMEO P.
ORTIZO, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

Before us is a petition for review seeking the reversal of the decision^[1] of the Court of Appeals dated June 30, 1999 in CA-G.R. SP No. 44123, dismissing the petition for review filed by petitioner. The petition assailed the orders dated January 8, 1996 and January 13, 1997 of the Regional Trial Court of Iloilo City, Branch 36, which respectively denied petitioner's motion to dismiss Civil Case No. 22462 and his motion for reconsideration.

The facts are undisputed.

Private respondent Romeo P. Ortizo was the Senior Engineer B in the National Irrigation Administration (NIA), Jalaur-Suague River Irrigation System, Region VI,^[2] tasked with the duty of assisting the Irrigation Superintendent in the said station.^[3] Sometime in June, 1995, petitioner Eduardo P. Corsiga, then Regional Irrigation Manager of the NIA, Region VI, issued Regional Office Memorandum (ROM) No. 52, reassigning private respondent to Aganan-Sta. Barbara River Irrigation System, likewise to assist the Irrigation Superintendent thereat.^[4] Aggrieved, private respondent wrote petitioner Corsiga requesting exemption and citing Memorandum Circular No. 47, Series of 1987 issued by the NIA Administrator, which states that the policy of rotation applies only to Department Managers, Irrigation Superintendents, Provincial Engineers and Division Manager of Field Offices. Petitioner denied the request. On July 31, 1995, private respondent filed with the Regional Trial Court of Iloilo City a complaint for prohibition and injunction, with prayer for issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction.

Petitioner moved to dismiss the petition for lack of jurisdiction and non-exhaustion of administrative remedies, but the motion was denied on January 8, 1996. The Regional Trial Court likewise denied the motion for reconsideration on January 13, 1997. Alleging that these two orders were issued without jurisdiction, petitioner elevated the controversy to the Court of Appeals via a petition for certiorari.

On June 30, 1999, the appellate court rendered a decision^[5] finding no merit in the petition and dismissing it. It affirmed the trial court's jurisdiction over Civil Case No. 22462 saying that the doctrine of exhaustion of administrative remedies does not

apply where the controverted act is patently illegal, arbitrary, and oppressive. Regional Office Memorandum No. 52, according to the court, was illegal since it violated private respondent's constitutional right to security of tenure. Private respondent's original appointment as Senior Engineer B in the NIA Jalaur River Irrigation System, Region VI is a permanent one; thus, it entitled him to a security of tenure. He cannot, therefore, be reassigned to another position that involves a reduction in rank without his consent. Concluded the appellate court:

WHEREFORE, IN VIEW OF THE FOREGOING, this petition for certiorari is DENIED DUE COURSE and is hereby DISMISSED. No pronouncement as to costs.^[6]

Hence, this petition where petitioner avers that the Court of Appeals erred in not holding that:

I

... THE COURT A QUO [Regional Trial Court] HAS NO JURISDICTION OVER THE NATURE AND SUBJECT MATTER OF THE CASE PURSUANT TO SECTION 13, RULE VII OF THE OMNIBUS RULES IMPLEMENTING BOOK V OF EXECUTIVE ORDER NO. 292.

II

... RESPONDENT HAS NO VALID CAUSE OF ACTION AGAINST PETITIONER FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.^[7]

The issues for our resolution are (a) whether the Regional Trial Court has jurisdiction over Civil Case No. 22462, and (b) whether private respondent has a cause of action despite his failure to exhaust administrative remedies.

On the first issue, petitioner avers that law and jurisprudence are clear and incontrovertible on the exclusive jurisdiction of the Civil Service Commission on all cases involving personnel actions including reassignment. Petitioner cites Section 13, Rule VII of the Omnibus Rules Implementing Book V^[8] of E.O. 292. He stresses our ruling in *Mantala vs. Salvador*^[9] that disciplinary cases and cases involving personnel actions affecting employees in the civil service – including appointment through certification, promotion, transfer, reinstatement, reemployment, detail, reassignment, demotion and separation, and employment status and qualification standards—are within the exclusive jurisdiction of the Civil Service Commission. Likewise cited is our holding in *Dario vs. Mison*^[10] that no fundamental difference exists between the Commission on Elections and the Civil Service Commission (or the Commission on Audit, for that matter) as to the constitutional intent to leave the constitutional bodies alone in the enforcement of laws relative to elections, with respect to the former, and the civil service, with respect to the latter (or the audit of government accounts, with respect to the Commission on Audit). As the poll body is the "sole judge" of all election cases, so is the Civil Service Commission the single arbiter of all controversies pertaining to the civil service.

Petitioner also avers that private respondent's allegation that the remedy under the Civil Service Rule is neither speedy nor adequate as well as his allegation that he will inevitably and doubtlessly be subjected to administrative charges in case of non-compliance with the memorandum, is pure speculation and conjecture. Private

respondent's fears of administrative charges do not, by mere allegation, *ipso facto* divest the Civil Service Commission of its exclusive jurisdiction on all controversies pertaining to civil service.

In his comment, private respondent maintains that as a civil service appointee to a position with a specification of a particular station, he cannot be validly and legally transferred or assigned to any other unit in the same agency without his consent. To do so is a violation of his constitutional right to security of tenure. For this reason, Regional Office Memorandum No. 52 reassigning him to a station different from that specified in his appointment papers was invalid. Yet, in spite of the patent illegality of the contemplated action, petitioner was adamant in implementing it. This, according to private respondent, left him with no other plain, speedy and adequate remedy but to go to court *via* a petition for prohibition and injunction, with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction.

We shall now resolve the issues raised in this petition.

(1) Does the Regional Trial Court have jurisdiction over Civil Case No. 22462?

The Civil Service Commission has jurisdiction over all employees of Government branches, subdivisions, instrumentalities, and agencies, including government-owned or controlled corporations with original charters.^[11] As such, it is the sole arbiter of controversies relating to the civil service.^[12] The National Irrigation Administration, created under Presidential Decree No. 1702, is a government-owned and controlled corporation with original charter. Thus, being an employee of the NIA, private respondent is covered by the Civil Service Commission.

Section 13 Rule VII of the Rules Implementing Book V of Executive Order No. 292 (the Adm. Code of 1987) provides how appeal can be taken from a decision of a department or agency head. It states that such decision shall be brought to the Merit System Protection Board (now the CSC *En Banc* per CSC Resolution No. 93-2387 dated June 29, 1993). It is the intent of the Civil Service Law, in requiring the establishment of a grievance procedure in Rule XII, Section 6 of the same rules, that decisions of lower level officials be appealed to the agency head,^[13] then to the Civil Service Commission.^[14] Decisions of the Civil Service Commission, in turn, may be elevated to the Court of Appeals. Under this set up, the trial court does not have jurisdiction over personnel actions and, thus, committed an error in taking jurisdiction over Civil Case No. 22462. The trial court should have dismissed the case on motion of petitioner and let private respondent question ROM No. 52 before the NIA Administrator, and then the Civil Service Commission. As held in *Mantala vs. Salvador*,^[15] cases involving personnel actions, reassignment included, affecting civil service employees, are within the exclusive jurisdiction of the Civil Service Commission.

(2) Does private respondent have a cause of action^[16] although his complaint was filed in the trial court without first exhausting all available administrative remedies?

Being an NIA employee covered by the Civil Service Law, in our view, private respondent should have first complained to the NIA Administrator, and if necessary, then appeal to the Civil Service Commission.^[17] As ruled in *Abe-Abe vs. Manta*, 90 SCRA 524 (1979), if a litigant goes to court without first pursuing his administrative