

THIRD DIVISION

[G.R. No. 139943, January 18, 2001]

**MANUEL MIRALLES, PETITIONER, VS. HON. SERGIO F. GO,
CHAIRMAN OF THE NATIONAL POLICE COMMISSION; AND
PABLO S. VILLANUEVA, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

Factual findings of administrative agencies, especially when affirmed by the Court of Appeals, are conclusive upon this Court. In the present case, petitioner has not shown sufficient ground to warrant an exception to the foregoing rule.

The Case

Filed before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the May 25, 1999 Decision^[1] of the Court of Appeals^[2] (CA) in CA-GR SP No. 42477. The CA had affirmed the ruling of the Special Appellate Committee of the National Police Commission (SAC-Napolcom), finding petitioner administratively liable for grave misconduct and ordering his dismissal from the service. The CA ruled as follows:

"Premises considered, the petition is dismissed, without pronouncement as to costs."^[3]

The Facts

The facts were adequately summarized by the CA as follows:

"1. On December 7, 1977, an administrative complaint was filed before the Office of the Hearing Officer of NAPOLCOM against petitioner Manuel Miralles for Grave Misconduct committed as follows:

`That on or about the 19th day of October 1977, in Quezon City Metro Manila, the above named respondent did then and there willfully, unlawfully and feloniously, without any just motive, and with intent to kill Patrolman NILO RESURRECION, assault, attack and wound the said Pat. Resurrecion with the use of firearms, directing the shots against the vital parts of the body of the latter and one Ernesto Mercullo, thereby inflicting upon them gunshot wounds which directly caused the death of Nilo Resurrecion and Ernesto Mercullo, acts of the said respondent punishable by law and rules.'

(p. 1, Complaint, Annex `4' of Petition)

"2. An investigation was conducted by Rogelio A. Ringpis, Hearing Officer No. 3 of NAPOLCOM, Manila (p. 2, Petition).

"3. After hearing, Hearing Officer Rogelio Ringpis submitted to the Chairman of NAPOLCOM an Investigation Report finding petitioner guilty of Grave Misconduct (Double Homicide) and recommending his dismissal from the service.

"Pertinent portion of said Investigation Report is hereby quoted:

`V. RECOMMENDATION:

WHEREFORE, respondent is hereby found guilty of grave misconduct (Double Homicide) and there being no mitigating circumstances to offset the aggravating circumstance, it is respectfully recommended that the penalty of dismissal from the service be imposed with prejudice to reinstatement to the Integrated National Police.

`SO RECOMMENDED.'

(p. 13, Report of Investigation, Annex `E', Petition).

"4. On September 10, 1980, the Adjudication Board No. 15 of the NAPOLCOM rendered its Decision finding petitioner guilty of Grave Misconduct and dismissing him from the service with prejudice to reinstatement, thus:

`WHEREFORE, this Board finds the herein Respondent in the above-entitled case guilty as charged and is hereby DISMISSED FROM THE SERVICE WITH PREJUDICE to reinstatement.

`SO ORDERED.'

(p. 10, Decision, annex `F', Petition)

"5. On April 20, 1981, petitioner filed a Motion for Reconsideration of the Decision but the same was denied by the Adjudication Board (p. 4, Petition).

"6. On September 23, 1981, petitioner appealed the aforestated Decision to the Special Appellate Committee of the NAPOLCOM (p. 4, Ibid).

"7. On June 6, 1983, [SAC-Napolcom] issued a Resolution which reads as follows:

`On September 23, 1981, x x x Pat. Manuel Miralles filed a Notice of Appeal from the Decision finding him guilty of Grave Misconduct and ordering his dismissal from the service with prejudice. By virtue thereof, the record of the case was elevated to this Committee. Since then, however, up to the present or a period of more than one (1) year and seven (7)

months, no appeal brief, memorandum or any pleading ha[s] been filed.

`WHEREFORE, the Appeal is hereby DISMISSED for abandonment and lack of interest.

`SO ORDERED.'

(Annex "J", Petition)

"8. On August 30, 1983, petitioner filed a Motion for Reconsideration with Manifestation praying that the dismissal of the Notice of Appeal be set aside and asking for time within which to submit his Memorandum.

"9. On September 27, 1983, petitioner submitted a Memorandum to [SAC-Napolcom].

"10. On April 26, 1984, [SAC-Napolcom] rendered its Decision affirming the Decision of the Adjudication Board.

"11. On June 30, 1984, petitioner filed a Motion for Reconsideration of the Decision.

"12. On October 30, 1989, [SAC-Napolcom] issued a Resolution denying his Motion for Reconsideration for lack of merit."^[4]

Ruling of the Court of Appeals

The Court of Appeals ruled that petitioner's recourse was premature, because the SAC-Napolcom's decision should have been appealed first before the Civil Service Commission, pursuant to RA 6975.

Even if it would, as it did, rule on the merits, the CA held that petitioner's appeal must still fail. This ruling was made in view of the documents presented and the eyewitness account of Alejandro Lamsen, who testified that he had seen petitioner shoot Pat. Nilo Resurreccion. The CA further stated that petitioner had failed to substantiate his claim of self-defense.

Hence, this Petition.^[5]

Issues

Petitioner presents the following issues for our consideration:

"I

Whether or not the Court of Appeals has jurisdiction to take cognizance of the instant case which was elevated directly from the Napolcom in view of the fact that the Napolcom decision sought to be reviewed was rendered before the effectivity of R.A. No. 6975, otherwise known as the PNP law, which provides that such decisions should first be elevated to

the Civil Service Commission before the Court of Appeals.

"II

Whether or not the dismissal of the petitioner from the service can be sustained on the basis of the evidence on record notwithstanding that the same overwhelmingly supports the dismissal of the instant administrative charge against the petitioner.

"III

Whether or not the petitioner acted in self-defense when he killed Nilo Resurrecion."^[6]

In the main, two issues are before us: (1) the propriety of the recourse to the CA and (2) the sufficiency of the evidence against petitioner.

The Court's Ruling

The Petition is not meritorious.

First Issue:

Propriety of the Recourse to the CA

Petitioner contends that the CA erred in ruling that the SAC-Napolcom ruling should have been appealed first to the DILG and then to the Civil Service Commission, pursuant to RA 6975. He maintains that the assailed resolution of SAC-Napolcom had been issued on October 20, 1989, but that the said law was promulgated only on January 2, 1991. That he received a copy of the Decision only on November 5, 1996 was due to the fault of the Napolcom. Hence, he posits that his appeal should be governed by the law in effect in 1989, not RA 6975 which became effective only in 1991.

We are not persuaded. It is clear that petitioner filed its appeal to the CA only on December 4, 1996. By then, the law in force, RA 6975, had already prescribed that appeals from the Decision of the Napolcom should be lodged first with the DILG and then with the Civil Service Commission. It did not matter that the assailed Napolcom ruling had been promulgated in 1989; petitioner did not receive it at the time and, thus, could not have filed the appeal then. In other words, his right to appeal had not yet vested on him. Verily, an appeal is a statutory right, and one who seeks to avail oneself of it must comply with the statute or the rule in effect when that right arose.^[7] Since the rule on appeal had already been modified at the time he received the assailed Resolution, he should have followed the modified rule. We agree with the following disquisition of the CA:

"Although the Special Appellate Committee of the NAPOLCOM, which was then still operating under the old PC/INP set-up, affirmed his dismissal from the police service on April 26, 1984 and denied his motion for reconsideration on October 20, 1989, the petitioner received notice of the denial only on November 5, 1996, and he filed the instant petition on December 4, 1996. By then, as aforesaid, R.A. 6975, an Act Establishing

the Philippine National Police under a Reorganized Department of Interior and Local Government was already in full force and effect. Its Section 91 provides that, "The Civil Service Law and its implementing rules and regulations shall apply to all personnel of the department."

As expounded by the Supreme Court in *Cabada vs. Alunan III*, petitioner's remedy at the first instance is appeal to the Secretary of the DILG and, thereafter, to the Civil Service Commission. Thus:

"x x x Complementary laws on discipline of government officials and employees must then be inquired into[,] considering that in conformity with the mandate of the Constitution that the PNP must be national in scope and civilian in character[, i]t is now a part, as a bureau, of the reorganized DILG. As such, it falls within the definition of the civil service in Section 2(1), Article IX-B of the Constitution. For this reason, Section 91 of the DILG Act of 1990 provides:

"SEC. 91. Application of Civil Service Laws. The Civil Service Law and its implementing rules and regulations shall apply to all personnel of the Department.

"The Civil Service Law referred to in Section 91 of the DILG Act of 1990 in Subtitle A. title I, Book V of the Administrative Code of 1987 (E.O. No. 292). Section 47 of Chapter 6 thereof provides, inter alia, That in cases where the decision rendered by a bureau or office is appealable to the Commission, the same may initially be appealed to the department and finally to the Commission.

"The rules and regulations implementing the Civil Service Law referred to in Section 91 of the DILG Act of 1990 is the Omnibus Rules Implementing Book V of Executive Order No. 292 known as the Administrative Code of 1987 promulgated by the CSC, Sections 31 and 32, Rule XIV of the said Rules provide as follows:

"SEC. 31. Except as otherwise provided by the Constitution or by law, the Commission shall have the final authority to pass upon the removal, separation and suspension of all officers and employees in the civil service and upon all matters relating to the conduct, discipline and efficiency of such officers and employees.

"SEC. 32. The secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to Investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case the penalty imposed is suspension for not more