

FOURH DIVISION

[CA-G.R. SP NO. 78009, September 19, 2006]

MELANIO S. TORIO, PETITIONER, VS. CONCERNED NPO EMPLOYEES, RESPONDENTS.

D E C I S I O N

BARRIOS, J.:

The petitioner Melanio S. Torio (or hereafter Torio) by this *Petition for Review* asks that the Resolution dated May 29, 2003 and the Order dated June 30, 2003 of the Office of the President (or OP) in O.P. Case No. 02-A-033, be reversed and set aside.

On November 27, 1998 a letter-complaint was filed before the then Press Secretary Rodolfo C. Reyes by persons who referred to themselves as concerned employees of the National Printing Office (or NPO) against some officials of the said office. They charged them of: (a) uncontrolled farming out of jobs to private printers; (b) giving conflicting reasons in the decision to use watermarked papers instead of carbonless ones in printing accountable forms with the following deficiencies - (i) there was no leak and stability test conducted; (ii) invitation to bid was signed by PBAC Chairman while the Multi-Forms, the winning bidder sent its reply through the respondent; and (iii) Multi-Forms the failed to post bidder's performance bond as required; (c) excessive rental of printing machines upon the recommendation of the respondent; and (d) overstocking of the items for sale.

Torio, who is the Director of the NPO, was one of the officials charged.

The then Presidential Commission against Graft and Corruption (or PCGC) now Presidential Anti-Graft Commission (PAGC), commenced an administrative investigation against the said officials. This was docketed as PCAG-ADM-98-0543. At the preliminary conference, Torio agreed to limit the issues on the following: (a) Uncontrolled farming out of jobs to private printers resulting in the deprivation of additional sales and/or revenues to NPO with the probable collusion of private printers; (b) Jobs were not awarded through public bidding but were merely given/endorsed by NPO contrary to standard operating procedure; (c) Lease of five (5) printing machines (despite purchase of printing equipments) and one (1) automatic cutter at a cost of P5,625,000.00 representing an increase in rental expense at about 167.85% from 1992 and 47.05% from 1997; (d) overstocking of finished goods for sale; (e) Giving conflicting reason in the decision to shift from watermarked papers to carbonless ones in printing accountable forms; (f) Purchase of 1,000 reams of watermarked papers even after the decision to shift to carbonless ones with security features (purchasing 3,000 reams of carbonless papers from Multi-Forms Corporation) resulting in the two (2) types of official receipts being sold, contrary to the objective of avoiding the proliferation of fake official receipts; and (g) In the procurement of 3,000 reams of carbonless papers, the rules and

regulations of public bidding were not complied with; there was no leak and stability test conducted; and Multi-Forms Corporation failed to post performance bond as required.

After hearing, the PAGC issued a Resolution finding Torio guilty for the anomalous / irregular procurement of 3,000 reams of carbonless paper, and recommended the penalty of suspension for six (6) months. The other charges were dismissed though, for insufficiency of evidence.

The PAGC's Resolution was forwarded to the OP for approval where it was docketed as O.P. Case No. 02-A-033. On May 29, 2003, the OP issued a Resolution decreeing that:

WHEREFORE, and as recommended by the PAGC, the penalty of suspension for six (6) months is hereby imposed upon respondent **Melanio S. Torio**, Director IV of the National Printing Office (NPO), effective upon receipt hereof.

SO ORDERED. (p. 26, rollo)

It appears that for the same acts and transactions a criminal case for Violation of Republic Act No. 3019 as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, was also filed with the Office of the Ombudsman against Torio and a Merlina Eusebio. On January 29, 2001 a Resolution was rendered on this by the Ombudsman dismissing the case for want of sufficient evidence:

WHEREFORE, premises considered, let the instant complaint be DISMISSED for want of sufficient evidence.

SO RESOLVED. (p. 99, rollo)

Claiming that this Resolution of the Ombudsman is a *new evidence which materially affect the decision rendered* in the administrative case, Torio moved for the reconsideration of the OP's Resolution. Torio also submitted Philippine Patent Certificate No. 18978 dated May 2, 2002 to prove that Multi Forms, Inc. is the sole distributor of the carbonless product.

On June 30, 2003, the OP issued an Order resolving that:

Upon consideration, this Office finds no cogent reason to disturb its ruling. Respondent's acquittal in the criminal case does not necessarily exculpate him administratively. The basic premise in criminal and civil cases are altogether different from administrative matter, such that the disposition in the first two will not inevitably govern the third and vice versa. (Gatchalian Promotions Talents Pool, Inc. vs. Atty. Primo R. Naldoza, 315 SCRA 406) A motion for reconsideration which does not make out "[a]ny new matter sufficiently persuasive to induce