



SUPREME COURT OF THE PHILIPPINES
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**Republic of the Philippines
 Supreme Court
 Manila**

FIRST DIVISION

LYDIA I. AGUIRRE,
 Petitioner,

G.R. No. 220224

Present:

- versus -

BERSAMIN, C.J.,
Chairperson,
PERLAS-BERNABE,
JARDELEZA,
GESMUNDO, and
CARANDANG, JJ.

DIRECTOR CECILIA R. NIETO
CIVIL SERVICE COMMISSION
REGIONAL OFFICE V, LEGASPI
CITY,

Respondent.

Promulgated:

AUG 28 2019

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DECISION

CARANDANG, J.:

Before this Court is a Petition for *Certiorari*¹ under Rule 65 of the Rules of Court, assailing the Decision² dated February 3, 2012 of the Civil Service Commission Regional Office V, Rawis, Legaspi City (CSC) in AC No. CSCRO5 D-05-099 filed by Lydia I. Aguirre (petitioner), Administrative Officer II of the Department of Environment and Natural Resources City-Environment and Natural Resources Office (DENR-CENRO).

Facts of the Case

On August 1, 2005, Abundio L. Elaurza (Elaurza), a Tree Marker of the DENR-CENRO, filed a complaint charging petitioner of dishonesty.³ According to him, on April 27, 2005, he went to their office to get his salary for April 16 to April 30, 2005. The cashier, Mrs. Edith Romero (Romero), told

¹ *Rollo*, pp. 3-13.
² *Id.* at 17-19.
³ *Id.* at 20.

him that she cannot give him his salary in full because petitioner instructed her that the amount of ₱480.00 for his uniform must be deducted. Elaurza asked if the instruction to deduct the uniform is based on a memorandum circular to which Romero did not answer.

Elaurza went to Provincial Environment and Natural Resources Officer (PENRO) Rodolfo Matusalim (Matusalim) to seek advice on the matter. Matusalim referred him to PENRO Administrative Officer Ema Lirag (Lirag), who assured him that his concern will be considered. Matusalim also said that the cost of the uniform must be deducted from the bonus and not from his salary.⁴

Matusalim and Lirag advised Elaurza to plead with petitioner not to deduct the amount of uniform from his salary. However, Romero said that petitioner strictly ordered her not to give the salary without the deduction for the uniform. Due to the refusal of Romero to give his salary in full, Elaurza directly went to petitioner to relay the advice of the PENRO officers. However, instead of giving Elaurza a chance to explain, petitioner allegedly uttered defamatory words against him in a loud voice, which were heard by the other employees.⁵

Worse, as of July 2005, the uniform was never delivered to Elaurza.⁶

On August 24, 2005, the complaint filed by Elaurza was dismissed for failure to attach certified true copies of documentary evidence and affidavits of his witnesses.⁷

On October 17, 2005, a Motion for Reconsideration⁸ was filed by Elaurza on the abovementioned dismissal of his complaint. Pursuant to this, an Order⁹ to submit a counter-affidavit was sent to petitioner on October 21, 2005 with a warning that failure to do so shall be deemed a waiver, and the case shall be resolved on the basis of the documents available at hand.

On April 3, 2009, a Formal Charge¹⁰ for dishonesty, grave misconduct, and discourtesy in the course of official duties was filed against petitioner. She was given three days from receipt of the order to file her answer.

On April 7, 2010 and August 24, 2011, notices of hearing were sent to petitioner.¹¹

On February 3, 2012, a Decision¹² was rendered by the CSC Regional Office V finding petitioner guilty of serious dishonesty, discourtesy in the

⁴ Id. at 21.

⁵ Id. at 22.

⁶ Id.

⁷ Id. at 25.

⁸ Id. at 26.

⁹ Id. at 27.

¹⁰ Id. at 29-30.

¹¹ Id. at 31-32.

¹² Id. at 17-19.

course of official duties, and grave misconduct, which meted the penalty of dismissal from the service, forfeiture of all retirement benefits, cancellation of eligibility, bar from taking the civil service examination, and perpetual disqualification for reemployment from the government service.¹³

It was held that, throughout the proceedings in the CSC, communications made to the petitioner were returned by Postal Service because petitioner's residence was always closed. Those sent to petitioner were not received because at times she was on leave, then overtaken by her retirement. Because of this, the CSC never received any answer to the charges against petitioner. Also, she never appeared at the hearings scheduled. Accordingly, the case was decided based on the documents presented by Elaurza.¹⁴

The CSC concluded that petitioner's act of representing to the employees of DENR-CENRO that the payment of their uniforms shall be deducted from regular salary when no such directive was issued, established that she has committed acts constituting dishonesty. Additionally, even when the deduction was effected from Elaurza's salary, the uniform was not delivered to him.¹⁵ Petitioner's act of confronting Elaurza, when she was asked about it by the latter, is unbecoming of a public officer. Instead of explaining the need to deduct the amount of the uniforms from his salary in a civil manner, petitioner was found to have arrogantly criticized and mocked Elaurza, when she dared the latter to file a complaint against her, and have flaunted her capability to counter the same. This behavior constituted discourtesy in the course of official duties.¹⁶ Because of the acts displayed by petitioner, the CSC concluded that she was, likewise, guilty of grave misconduct, as she has intentionally trampled on the rights of other employees and transgressed the rules and standards of behavior, which a government employee is bound to observe in the performance of her duties.¹⁷

Petitioner alleged that she started to work in the DENR-CENRO on August 20, 1964 and compulsorily retired from service on December 27, 2005.¹⁸ The DENR processed her retirement and terminal leaves because at the time of her compulsory retirement, she had no pending administrative case.¹⁹

On February 20, 2012, the DENR Regional Office V received the decision of the CSC. Petitioner came to know of the CSC decision only when the Government Service Insurance System (GSIS) suddenly stopped giving her pension. On July 10, 2015, she obtained a copy of the decision. Having no other remedy to assail the decision, she filed this extraordinary remedy of petition for *certiorari*.²⁰

¹³ Id. at 19.

¹⁴ Id. at 17-18.

¹⁵ Id. at 18.

¹⁶ Id. at 18-19.

¹⁷ Id. at 19.

¹⁸ Id. at 4.

¹⁹ Id. at 6.

²⁰ Id. at 6-7.

Issue

The sole issue in this case is whether or not due process was afforded to petitioner.

Ruling of the Court

Certiorari may lie when there is denial of due process.

It must be noted at the outset that, under Rule 65 of the Rules of Court, the writ of *certiorari* is available where any tribunal, board or officer exercising judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. A person aggrieved thereby may file a verified petition in the proper court alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings, as the law requires, of such tribunal, board or officer.

A petition for *certiorari* is an extraordinary writ which cannot be availed of when other remedies are available to petitioner. Additionally, questions of fact are not generally permitted, and the inquiry is very limited in the sense that the question is only whether the respondent tribunal has acted without or in excess of its jurisdiction or with grave abuse of discretion.

In this case, while the correct remedy from the decision of the CSC is to file a petition for review to the Court of Appeals under Rule 43, however, when there is denial of due process, there is grave abuse of discretion amounting to lack of jurisdiction, and the writ of *certiorari* is in order.

Due process is the right to a notice and hearing. Absent this, a petition for *certiorari* may be availed of.

The presumption that a letter duly directed and mailed was received in the regular course of mail is not applicable

Under Rule 131, Section 3(v) of the Rules of Court,²¹ there is a presumption that a letter duly directed and mailed was received in the regular course of the mail. The Supreme Court has consistently held that while a mailed letter is deemed received by the addressee in the course of mail, this is

²¹ Rule 131.
Burden of Proof and Presumptions
x x x x
Sec. 3. *Disputable presumptions.* – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:
x x x x
(v) That a letter duly directed and mailed was received in the regular course of the mail;
x x x x.



merely a disputable presumption subject to controversion and a direct denial thereof shifts the burden to the party favored by the presumption to prove that the mailed letter was indeed received by the addressee.²²

In this case, petitioner denies having received the notices. She also found that the CSC Regional Office V has no records of the alleged pre-hearing conference called by the CSC Region V Legal Service Division. Likewise, there is no record of the proceedings of the alleged hearing conducted by the CSC. Such denial has shifted to the CSC the burden of proving that indeed the notices were received by petitioner. However, there was no evidence adduced by the CSC to that effect.

Jurisprudence dictates that registry receipt or a certification from the Bureau of Posts are independent evidence to support the claim that the notices were indeed received by the addressee.²³ This was reiterated in another case where it was held that the ordinary normal proof of registered mail service as provided by the Rules is the affidavit of mailing and registry receipt.²⁴

In this case, it was even the petitioner who presented registry return receipts of the notice of hearing sent to Elaurza and registry return receipts of the decision sent to Elaurza and the manager of GSIS. However, there are no registry return receipts of the notices of hearing and decision sent to petitioner. If it were indeed sent properly to petitioner, all the registry return receipts should have been accordingly documented in the records of the CSC Region V.

Given that the formal charge, notices of hearing, and order to comment were not established to have been received by petitioner, all sent at the time after she retired in December 2005, clearly, she was deprived of the opportunity to be heard and present her case.

The infraction of petitioner does not amount to serious dishonesty, discourtesy and grave misconduct.

“In a long line of cases, dishonesty has been defined as the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.”²⁵ Thus, dishonesty, like bad faith, is not simply bad judgment or negligence. Dishonesty is a question of intention. In ascertaining the intention of a person accused of dishonesty, consideration must be taken not only of the facts or circumstances which gave rise to the act committed, but also of the state of mind at the time the offense is committed, the time he might have had at his disposal for the purpose of meditating on the consequences of his act, and the

²² *Barcelon, Roxas Securities, Inc. v. Commissioner of Internal Revenue*, 529 Phil. 758, 790 (2005).

²³ *Id.* at 798.

²⁴ *Cortes v. Hon. Valdellon, etc., et al.*, 162 Phil. 745, 752 (1976).

²⁵ *Committee on Security and Safety, Court of Appeals v. Dianco, et al.*, 760 Phil. 169, 188 (2015).

degree of reasoning he could have had at that moment.²⁶

In this case, the facts do not show that petitioner's act of ordering the amount of uniform to be deducted from the salary of Elaurza manifests her disposition to cheat, lie and defraud another. It was not established that the amount ordered to be deducted was pocketed by petitioner. There is indeed a memorandum issued by the secretary of DENR to ensure the wearing of uniforms of DENR employees. While the memorandum did not specify that a certain amount be deducted from the salary of the employees, it mandated that the different offices see to it that the prescribed uniforms be worn at all times. Petitioner cannot be faulted if she ordered the deduction of the amount of uniforms from the salaries of the employees to ensure that they will only be getting the same materials, colors and designs from one supplier in order to conform with what was prescribed by the Secretary.

As to discourtesy in the course of official duties, as a public officer, petitioner is bound, in the performance of her official duties, to observe courtesy, civility, and self-restraint in her dealings with others.²⁷ Even assuming that the confrontation between petitioner and Elaurza constitutes discourtesy in the course of official duties, the same is not punishable by the ultimate penalty of dismissal from service.

Needless to state, the acts allegedly committed by petitioner are not constitutive of grave misconduct necessitating her dismissal from service. Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules which must be proved by substantial evidence.²⁸

The facts narrated by Elaurza, even when considered in this case, do not show that petitioner is guilty of grave misconduct. This finding of absence of liability coupled with the fact that the very essence of due process has not been granted to petitioner who has spent 41 years in public service and has already looked forward to her well-deserved retirement when she was deprived of her retirement benefits without having been accorded due process should not be disregarded.

WHEREFORE, the instant petition is **GRANTED**. The Decision dated February 3, 2012 of the Civil Service Commission Regional Office V in AC No. CSCRO5 D-05-099 is hereby **REVERSED AND SET ASIDE**. The Government Service Insurance System is **ORDERED** to resume giving to petitioner Lydia I. Aguirre her pension and other retirement benefits as well as those not received by her during the pendency of this case.



²⁶ *Millena v. Court of Appeals*, 381 Phil. 132, 142-143 (2000).

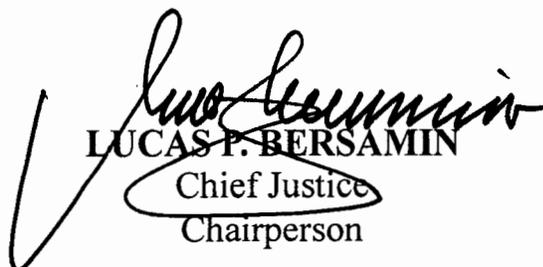
²⁷ *Escaño v. Manaois*, 799 Phil. 622, 636 (2016).

²⁸ *Civil Service Commission v. Ledesma*, 508 Phil. 569-579 (2005).

SO ORDERED.


ROSMARI D. CARANDANG
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice
Chairperson

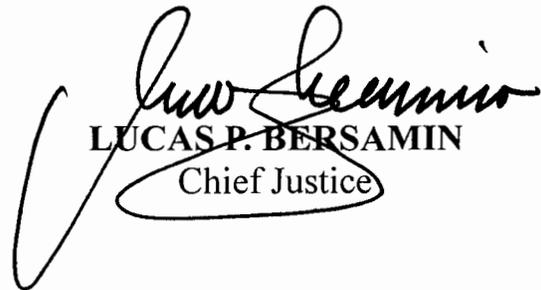

ESTELA M. PERLAS-BERNABE
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice