



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

ADELINA A. ROMERO

Petitioner,

G.R. No. 217450

Present:

- versus -

LEONEN, J., *Chairperson,*
 HERNANDO,
 INTING,
 DELOS SANTOS,** and
 ROSARIO, JJ.

JESSE* I. CONCEPCION,
Mayor, Municipal Government
of Mariveles, Province of
Bataan,

Promulgated:

Respondent.

November 25, 2020

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DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated August 29, 2014 and the Resolution³ dated March 5, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 131907. The CA modified Resolution No. 1300810⁴ dated April 29, 2013 and Resolution No. 1302038⁵ dated September 2, 2013 of the Civil Service Commission (CSC).

* Sometimes spelled as Jessie in some parts of the *rollo*.

** On official leave.

¹ *Rollo*, pp. 3-15.

² *Id.* at 20-28; penned by Associate Justice Rainon A. Cruz with Associate Justices Hakim S. Abdulwahid and Romeo F. Barza, concurring.

³ *Id.* at 30-31.

⁴ *Id.* at 48-52; signed by Commissioner Robert S. Martinez and Chairman Francisco T. Duque III, and attested by Director IV Dolores B. Bonifacio, Commission Secretariat and Liaison Office.

⁵ *Id.* at 42-47; signed by Commissioner Robert S. Martinez, Chairman Francisco T. Duque III and Commissioner Nieves L. Osorio, and attested by Director IV Dolores B. Bonifacio, Commission Secretariat and Liaison Office.

The Antecedents

Adelina A. Romero (petitioner) was the Municipal Accountant of the Municipality of Mariveles, Bataan from 1992 to 2002. In July 2001, Atty. Jose Michael P. Operario, Leonardo Mallari, Vice Mayor Victoriano C. Isip, and *Sangguniang Bayan* of Mariveles members, namely: Rodante A. Casino, Joseph T. Pereyra, Rafael Z. Sanchez, Ernie C. Del Rosario, Norberto M. Venturina, Jose C. Villapando, and Neil Francis V. Garrido filed an administrative complaint against the petitioner with regard to her work ethic and conduct related to the performance of her duty.⁶

On October 15, 2001, after conducting a fact-finding investigation, the CSC Regional Office filed an administrative case against petitioner for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.⁷

On February 11, 2002, the CSC Regional Office preventively suspended petitioner for a period of 90 days to avoid influence in the investigation of the case.⁸

On July 4, 2003, the CSC Regional Office found petitioner guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and imposed on her the penalty of dismissal from the service with the accessory penalties of perpetual disqualification for reemployment in the government and bar from taking any civil service examination in the future, without prejudice to the filing of criminal charge against her if the evidence so warrants.⁹

Petitioner filed a motion for reconsideration. In its Order dated March 15, 2005, the CSC Regional Office denied the motion.¹⁰

Petitioner appealed to the CSC. In its Resolution No. 080373 dated March 12, 2008, the CSC denied the appeal.¹¹

⁶ *Id.* at 54.

⁷ *Id.* at 56.

⁸ *Id.* at 57.

⁹ *Id.* at 58.

¹⁰ *Id.*

¹¹ As culled from the Decision dated March 17, 2010 of the Court of Appeals in CA-G.R. SP No. 103081, *id.* at 53.

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Petitioner filed a petition for review before the CA docketed as CA-G.R. SP No. 103081. In its Decision¹² dated March 17, 2010 in CA-G.R. SP No. 103081, the CA partially granted the petition and held petitioner guilty of Simple Misconduct and Conduct Prejudicial to the Best Interest of the Service, with a penalty of suspension for one (1) year. The CA Decision in CA-G.R. SP No. 103081 became final and executory on April 24, 2010.¹³

Due to the then incumbent Mayor's refusal to reinstate her, petitioner filed a Motion for Execution¹⁴ of the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081 before the CSC.

The Resolutions of the CSC

In its Resolution No. 1100967¹⁵ dated July 19, 2011, the CSC granted petitioner's Motion for Execution and ordered her reinstatement to her former position as Municipal Accountant of the Municipal Government of Mariveles, Bataan, with payment of back salaries corresponding to the period after her suspension for one (1) year until her actual reinstatement.¹⁶

Jesse I. Concepcion, in her capacity as the Municipal Mayor of Mariveles, Bataan (respondent), filed a motion for reconsideration. In its Resolution No. 1300810¹⁷ dated April 29, 2013, the CSC reversed and set aside its Resolution No. 1100967 dated July 19, 2011.¹⁸ The CSC ruled that the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081 modified the CSC Resolution No. 080373 dated March 12, 2008 only insofar as it ruled that petitioner was guilty only of Simple Misconduct and Conduct Prejudicial to the Best Interest of the Service

¹² *Id.* at 53-69; penned by Associate Justice Mario V. Lopez (now a member of the Court) with Associate Justices Portia Aliño-Hormachuelos and Arcangelita M. Romilla-Lontok, concurring.

¹³ See Entry of Judgment of the Decision dated March 17, 2010 in CA-G.R. SP No. 103081, *id.* at 70.

¹⁴ *Id.* at 71-73.

¹⁵ *Id.* at 90-92; signed by Commissioner Mary Ann Z. Fernandez-Mendoza and Commissioner Rasol L. Mitmug; Chairman Francisco T. Duque III was on official business; and attested by Director IV Dolores B. Bonifacio, Commission Secretariat and Liaison Office.

¹⁶ *Id.* at 92.

¹⁷ *Id.* at 48-52.

¹⁸ *Id.* at 52.

and that the penalty imposed should be suspension for one (1) year.¹⁹ The CSC ruled that petitioner was not entitled to back salaries during the period of her suspension from the service because she was not fully exonerated of the charges. The CSC further ruled that petitioner cannot be reinstated to the service because of Office Order No. 126 dated July 28, 2004 dropping her from the roster of municipal employees effective July 8, 2004.²⁰

Petitioner filed a Motion for Reconsideration.²¹ In its Resolution No. 1302038 dated September 2, 2013, the CSC denied the motion.

Petitioner filed a Petition for Review²² under Rule 43 before the CA.

The Decision of the CA

In its assailed Decision promulgated on August 29, 2014, the CA partially granted the petition.

The CA ruled that the CSC Resolution No. 1100967 dated July 19, 2011 erroneously ordered the payment of petitioner's back salaries corresponding to the period after her one (1) year suspension until her actual reinstatement; that the mere reduction of petitioner's penalty on appeal did not entitle her to back salaries because she was not exonerated of the charges against her; and that the CSC correctly set aside its Resolution No. 1100967 dated July 19, 2011 in its Resolution No. 1300810 dated April 29, 2013 wherein it ruled that petitioner was not entitled to back salaries.

However, the CA found that the CSC erred in ruling that petitioner can no longer be reinstated to her former position as Municipal Accountant of the Municipal Government of Mariveles, Bataan because she had been dropped from the roll; that petitioner was dropped from the roll in view of the application of Section 12, Rule 43 of the Rules of Court under which the appeal to the CSC and the CA did not stay the

¹⁹ *Id.* at 48.

²⁰ *Id.* at 51.

²¹ *Id.* at 118-122.

²² *Id.* at 32-40.

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execution of the Decision dated July 4, 2003 of the CSC Regional Office dismissing petitioner from the service; that since it downgraded petitioner's penalty to suspension for one (1) year in CA-G.R. SP No. 103081, respondent cannot justify her dropping from the roll because of her absence for more than 30 days; that petitioner's absence was due to the implementation of the Decision dated July 4, 2003 of the CSC Regional Office during the pendency of the appeal; that during that period, petitioner could not be expected to report for work; and that petitioner was considered to have been under preventive suspension during the pendency of the appeal.²³

The dispositive portion of the CA Decision reads:

WHEREFORE, the Petition for Review is PARTIALLY GRANTED. The Resolution No. 13-00810 dated April 29, 2013 and Resolution No. 13-02038 dated September 2, 2013 are modified in that the incumbent Mayor of the Municipal Government of Mariveles, Bataan is directed to immediately reinstate Adelina Romero to her former position as Municipal Accountant of the Municipal Government of Mariveles, Bataan without payment of back salaries.

SO ORDERED.²⁴

Petitioner filed a Motion for Partial Reconsideration,²⁵ while respondent filed a Motion for Reconsideration.²⁶ In its Resolution dated March 5, 2015, the CA denied both motions for lack of merit.

Hence, the petition.

The Issue

Whether petitioner is entitled to back salaries from the time of the finality of the CA Decision on April 24, 2010 in CA-G.R. SP No. 103081 dated March 17, 2010 until her actual reinstatement as Municipal Accountant of the Municipal Government of Mariveles, Bataan.

²³ *Id.* at 24-26.

²⁴ *Id.* at 27.

²⁵ *Id.* at 148-155.

²⁶ *Id.* at 163-167.

The Ruling of the Court

The petition is meritorious.

Petitioner maintains that she should have been reinstated to her former position on April 24, 2010, the date when the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081 became final and executory. Petitioner alleges that she was ready and willing to work, but the then Municipal Mayor, as well as respondent, refused to reinstate her. Petitioner further alleges that she had to file a Motion for Execution, before the CSC to implement the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081, but respondent still refused to reinstate her. Petitioner finally argues that she is entitled to back salaries because she could not be faulted for her non-reinstatement.

Respondent, in her Comment,²⁷ asserts that petitioner was not exonerated of the charges against her. As such, petitioner is not entitled to payment of back salaries.

In her Petitioner's Reply (to Respondents' Comment dated 7 December 2015),²⁸ petitioner reiterates that respondent refused to reinstate her without any justifiable ground; and that her reinstatement was unduly delayed without her fault.

Following the ruling of the Court in *City Mayor of Zamboanga v. Court of Appeals*²⁹ (*City Mayor of Zamboanga*), the CA held that private respondent Eustaquio C. Argana (private respondent Argana) is not entitled to back salaries because back salaries may only be ordered paid to an officer or employee if he is exonerated of the charges against him. The CA ruled that since private respondent Argana did not work during the period for which she is now claiming for her salaries, there is no legal or equitable basis for the payment of back salaries. Indeed, the Court ruled in *City Mayor of Zamboanga* that to allow private respondent Argana therein to receive back salaries would amount to

²⁷ *Id.* at 177-179.

²⁸ *Id.* at 182-185.

²⁹ 261 Phil. 936 (1990).

rewarding him for his misdeeds and compensating him for services he did not render.³⁰

In the case, the Court needs to distinguish between the period during the pendency of petitioner's appeal of her dismissal from the service until the finality of the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081 and the period from the finality of the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081 until her actual reinstatement.

In *Civil Service Commission v. Cruz*,³¹ the Court held:

The issue of entitlement to back salaries, for the period of suspension pending appeal, of a government employee who had been dismissed but was subsequently exonerated is settled in our jurisdiction. The Court's starting point for this outcome is the "no work-no pay" principle — public officials are only entitled to compensation if they render service. We have excepted from this general principle and awarded back salaries even for unworked days to illegally dismissed or unjustly suspended employees based on the constitutional provision that "no officer or employee in the civil service shall be removed or suspended except for cause provided by law"; to deny these employees their back salaries amounts to unwarranted punishment after they have been exonerated from the charge that led to their dismissal or suspension.³²

It is settled that petitioner was not exonerated of the charges against her, but she was found guilty of a lesser offense with a lesser penalty. Thus, during the pendency of her appeal until the finality of the CA Decision in CA-G.R. SP No. 103081 on April 24, 2010, petitioner is not entitled to back salaries.

Still, from the time of the finality of the CA Decision in CA-G.R. SP No. 103081, there is no longer any pending appeal. Considering that at the time of the finality of the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081, petitioner had already served her one (1) year suspension; thus she should have been immediately reinstated to her former position. The prohibition on payment of back salaries should no longer apply. To rule otherwise would make it easier to disregard a final

³⁰ *Id.* at 942.

³¹ 670 Phil. 638 (2011).

³² *Id.* at 646. Citations omitted.

and executory judgment of the courts and prolong its execution to the detriment of the winning party. The Court notes that as of the time of the filing of her reply, petitioner has yet to be reinstated as Municipal Accountant of the Municipal Government of Mariveles, Bataan.

It is the duty of respondent to reinstate petitioner as Municipal Accountant of the Municipal Government of Mariveles, Bataan in compliance with the final and executory decision of the CA. However, even after the finality of the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081, respondent still refused to reinstate petitioner. Petitioner had to file a Motion for Execution before the CSC and litigate once again on the legality of respondent's action dropping her from the roll. Respondent's act is clearly dilatory and is intended to delay the execution of the CA Decision dated March 17, 2010 in CA-G.R. SP No. 103081.

The Court reiterates that a "judgment, if left unexecuted, would be nothing but an empty victory for the prevailing party."³³ The Court cannot allow respondent to circumvent a final and executory judgment by her continued refusal to implement it.

WHEREFORE, the Court **PARTIALLY GRANTS** the petition and **MODIFIES** the Decision dated August 29, 2014 and the Resolution dated March 5, 2015 of the Court of Appeals in CA-G.R. SP No. 131907 by ordering the payment of petitioner Adelina A. Romero's back salaries from the time of the finality of the Decision dated March 17, 2010 in CA-G.R. SP No. 103081 on April 24, 2010 until her actual reinstatement.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

³³ See *Lomondot, et al. v. Judge Balindong, et al.*, 763 Phil. 617, 629 (2015), citing *Villasi v. Garcia, et al.*, 724 Phil. 519, 531 (2014), further citing *Florentino v. Rivera*, 515 Phil. 494, 505 (2006).

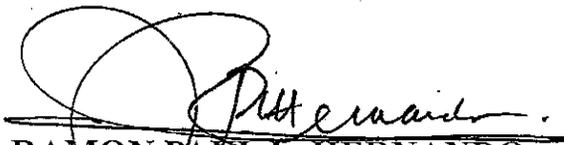


WE CONCUR:



MARVIC M.V.F. LEONEN

*Associate Justice
Chairperson*



RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
EDGARDO L. DELOS SANTOS
Associate Justice

RICARDO R. ROSARIO
Associate Justice

ATTESTATION

I attest 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.



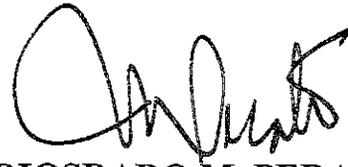
MARVIC M.V.F. LEONEN

*Associate Justice
Chairperson*



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.



DIOSDADO M. PERALTA
Chief Justice

