



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 9, 2020** which reads as follows:*

“G.R. No. 220162 (*Milagros Razote v. Bro. Armin A. Luistro, et al.*). – Before this Court is a Petition for Review on *Certiorari*¹ filed by Milagros Razote (Razote) assailing the Decision² dated March 27, 2015 and the Resolution³ dated August 18, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 132350. The CA denied the *certiorari* petition filed by Razote assailing the resolution of the Civil Service Commission (CSC) dismissing her from service as well as the Orders issued by the Department of Education (DepEd) executing her dismissal from service.

Facts of the Case

Razote started her career as a public school teacher in 1975. She was promoted as Head Teacher in 1980 to 1986. On June 16, 1986, Razote was promoted as Educational Media Supervisor and thereafter as General Education Supervisor in English of DepEd Cagayan.⁴

However, on June 24, 1986, a certain Romeo Tumaliuan (Tumaliuan) filed an administrative case for grave misconduct against Razote and her husband, Roland Razote (Roland), who was also a teacher. Tumaliuan alleged that Roland repeatedly committed sexual abuse against the former’s daughter when she was only 12 years old. Tumaliuan’s daughter allegedly became pregnant and Razote

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¹ *Rollo*, pp. 3-20.

² Penned by Associate Justice Jose C. Reyes, Jr. (former Member of the Court), with the concurrence of Associate Justices Francisco P. Acosta and Eduardo P. Peralta; *id.* at 25-33.

³ *Id.* at 23.

⁴ *Id.* at 25-26.

conspired with a certain Visitacion Binarao-Arugay in causing the abortion of the fetus carried by Tumaliuan's daughter.⁵

The Civil Service Regional Office No. 2 (CSCRO 2) formally assumed jurisdiction over the administrative case against Razote and her husband on their alleged immorality and grave misconduct. In his Answer, Roland denied the allegations in the complaint while Razote did not file an Answer. After the investigation, the CSCRO2 issued Resolution No. 90-923 dated October 7, 1990 finding Razote and her husband guilty of grave misconduct and ordered their dismissal from service. Razote and her husband did not file an appeal from the said resolution.⁶

On July 17, 2013 or 23 years from the issuance of Resolution No. 90-923, the Office of the Secretary of DepEd issued an Order directing the Regional Director to immediately implement the dismissal of Razote from service. Pursuant to said Order, the Regional Director of DepEd in Region 2 issued an Order/Writ of Execution dated August 1, 2013.⁷

Razote allegedly learned only about the CSC Resolution No. 90-923 as well as the DepEd Order for the execution of her dismissal from service on August 13, 2013 when she sought for clearance from the CSC and DepEd as required for her promotion as Schools Division Superintendent of Region 2.⁸ On the same day, she sent a Request for Legal Opinion from the CSC claiming the she was deprived of due process on the alleged lack of notice on the promulgation of Resolution No. 90-923. On August 23, 2013, she sent a letter to the Office of the President similarly raising the same argument.⁹

Claiming that she has not received any reply from the CSC and the Office of the President, Razote filed a Petition for *Certiorari* and Injunction to the CA on October 11, 2013.¹⁰

On March 27, 2015, the CA rendered its Decision¹¹ denying the petition filed by Razote. According to the CA, the *certiorari* petition was not the proper remedy to assail Resolution No. 90-923 issued by the CSC. Razote should have filed a petition for review under Rule 43

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⁵ Id.

⁶ Id. at 27.

⁷ Id.

⁸ Id. at 6.

⁹ Id. at 28.

¹⁰ Id. at 11.

¹¹ Supra Note 2.

of the Rules of Court instead. Hence, the CA refused to entertain the *certiorari* petition filed by Razote.¹²

The CA did not give credence to Razote's claim that the condonation doctrine should be applied to her. The CA likewise held that the failure of the CSC and DepEd to execute the dismissal order for 23 years does not render the same moot and academic as the principle of estoppel does not operate against the Government for the act of its agents.¹³ The CA also discussed that contrary to Razote's claim, the principle of prescription of penalty under the Revised Penal Code cannot be applied suppletorily in an administrative case. Lastly, the CA held that on November 13, 2013, the Career Executive Service Board issued a Resolution forfeiting Razote's Career Executive Service eligibility. Subsequently, Razote's Career Executive Service Rank was likewise revoked.¹⁴

Razote filed a motion for reconsideration which was denied in a Resolution¹⁵ dated August 18, 2015.

The denial of the motion for reconsideration prompted Razote to file this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court.

According to Razote, during her period of service in the government, she has received various career advancements and promotions which required multiple clearances from the CSC and other concerned government agencies. From every previous promotion, the CSC and DepEd has not flagged her of any existing administrative case. Hence, she believed in good faith that the administrative case instituted against her in 1986 has become moot.¹⁶ Moreover, Razote claimed that the criminal complaint filed against her before the prosecutor in Cagayan alleging the same facts as the administrative case was dismissed for failure to show probable cause.¹⁷ Razote finds Resolution No. 90-923 and the DepEd Orders for the execution of the same to have been issued in violation of her right to due process.¹⁸ Hence, the *certiorari* petition before the CA was the only proper and adequate remedy to assail the CSC Resolution No. 90-923 because the same was never properly served

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¹² *Rollo*, 28-29.

¹³ *Id.* at 30.

¹⁴ *Id.* at 32-33.

¹⁵ *Id.* at 24.

¹⁶ *Id.* at 7-8.

¹⁷ *Id.* at 8.

¹⁸ *Id.* at 10.

on her for more than 23 years.¹⁹ Further, Razote insists that administrative condonation is applicable to an appointive official²⁰ and that prescription of penalty can be applied suppletorily in this case.²¹

In its Comment,²² the Office of the Solicitor General (OSG) agreed with the CA that the *certiorari* petition filed by Razote was not the proper remedy because a petition for review under Rule 43 is the adequate and speedy remedy for her.²³ The OSG likewise noted that since Razote and her husband were represented by a common counsel during the administrative proceeding before the CSC prior to the issuance of Resolution No. 90-923, her right to due process was not violated.²⁴ Contrary to Razote's claim, administrative condonation cannot be applied to her as well as prescription under the Revised Penal Code.²⁵

In her Reply,²⁶ Razote reiterates that for failure to be properly served with Resolution 90-923 as well as the Orders for its execution, her right to due process was violated.²⁷

The Memorandum²⁸ filed by the OSG is a mere reiteration of the arguments raised in the Comment.

Issue

Whether the CA erred in denying the *certiorari* petition filed by Razote questioning CSC Resolution No. 90-923 ordering her dismissal from service.

Ruling of the Court

After a perusal of the records of the case, this Court resolves to deny the petition for review on *certiorari*.

At the outset, the Court agrees with the CA that the proper remedy to assail Resolution No. 90-923 issued by the CSC is to file a Petition for Review under Rule 43 of the Rules of Court and not a

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¹⁹ Id. at 14.
²⁰ Id. at 16.
²¹ Id. at 17.
²² Id. at 48-60.
²³ Id. at 53.
²⁴ Id. at 55.
²⁵ Id. at 55-56.
²⁶ Id. at 123-127.
²⁷ Id. at 125.
²⁸ Id. at 132-146.

Petition for *Certiorari*.²⁹ Even assuming that Razote indeed failed to receive the CSC Resolution, the CA is correct in its observation that Razote should have secured a certification of the actual date of her receipt of the resolution, no matter how belated it might have been, and from that date, she should have availed of the proper remedies provided by law.³⁰

The writ of *certiorari* is available only when 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.³¹

While there are cases where the Court allowed a *certiorari* petition to prosper on the ground of denial of due process, which is tantamount to grave abuse of discretion, nevertheless, there is no violation of due process in this case. Due process is simply the right to a notice and hearing. In this case, the record shows that Razote and her husband were represented by a common counsel during the proceedings before the CSC. Hence, Razote was given an ample opportunity to participate in the proceedings and have her defenses presented and heard. Thus, she cannot claim that she was denied of her constitutional right to due process.

Further, it is a hornbook rule that findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality.³² Specifically for this case, with its constitutional mandate, CSC has acquired “specialized knowledge and expertise” in the field of civil service law. Consequently, its findings of fact, if based on

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²⁹ *Aguirre v. Nieto*, G.R. No. 220224, August 28, 2019.

³⁰ *Rollo*, p. 30

³¹ *Supra* note 29.

³² *Marlow Navigation Philippines, Inc. v. Heirs of Ganal*, 810 Phil. 956, 961 (2017).

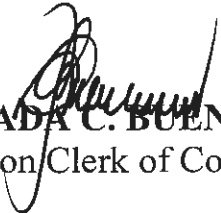
substantial evidence, are “accorded great respect and even finality” by appellate courts, this Court included. Absent grave abuse of discretion, this court will not disturb the findings of fact of the CSC.³³

Based on the foregoing, the CA’s denial of the *certiorari* petition filed by Razote is proper.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated March 27, 2015 and the Resolution dated August 18, 2015 of the Court of Appeals in CA-G.R. SP No. 132350 are **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *of o/w*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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³³ *Abad v. Dela Cruz*, 756 Phil. 414, 428 (2015).

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