



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated September 3, 2020 which reads as follows:*

**“G.R. No. 238312 — JULIUS TUGADE ALATRACA, petitioner, versus NATIONAL POLICE COMMISSION, CHIEF PHILIPPINE NATIONAL POLICE, DIRECTOR OF POLICE SECURITY AND PROTECTION GROUP, AND CIVIL SERVICE COMMISSION, respondents.**

This resolves the Petition for Review on *Certiorari*<sup>1</sup> filed under Rule 45 of the Rules of Court which seeks to reverse the Decision<sup>2</sup> dated October 24, 2017 and Resolution<sup>3</sup> dated March 20, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 144531. The CA affirmed the Decision<sup>4</sup> dated October 28, 2015 of the Civil Service Commission (CSC) dropping Julius Tugade Alatraca from the roll of employees for being absent without official leave.

ANTECEDENTS

Julius Alatraca is a former member of the Police Security and Protection Group (PSPG). On April 24, 2012, the PSPG issued Special Order No. 175<sup>5</sup> which dropped Alatraca from the roll of employees effective April 21, 2012. Allegedly, Alatraca incurred absences without official leave (AWOL) from January 25 to April 21,

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<sup>1</sup> *Rollo*, pp. 11-23.

<sup>2</sup> *Id.* at 27-36; penned by Associate Justice Maria Filomena D. Singh, with the concurrence of Associate Justices Jane Aurora C. Lantion and Edwin D. Sorongon.

<sup>3</sup> *Id.* at 39-44.

<sup>4</sup> *Id.* at 110-115; penned by Commissioner Robert S. Martinez, with the concurrence of Chairperson Commissioner Alicia dela Rosa-Bala; Commissioner Nieves L. Osorio on official business.

<sup>5</sup> *Id.* at 80; signed by Ariel Leonor Andrade, PESE, Police Senior Superintendent of the PSPG.

2012. Failing to secure a reconsideration,<sup>6</sup> Alatraca elevated the matter to the Chief of the Philippine National Police (PNP) but was denied on October 7, 2013.<sup>7</sup> His appeal to the Department of Interior and Local Government (DILG) was likewise denied on September 22, 2014.<sup>8</sup> Unfazed, Alatraca appealed to the CSC.

On October 28, 2015, the CSC found sufficient basis to drop Alatraca from the rolls. The failure of the PNP to timely inform Alatraca of the Special Order did not prejudice him but rather, it was the government that suffered from the belated dispensation of the order dropping Alatraca from the roll of employees. The CSC disposed.<sup>9</sup>

**WHEREFORE**, the appeal of Julius T. Alatraca, former Police Senior Inspector, Police Security and Protection Group, National Headquarters, Philippine National Police (PNP), Quezon City, is hereby **DISMISSED**. Accordingly, the Resolution dated September 22, 2014 issued by then DILG Secretary and NAPOLCOM Chairman Manuel A. Roxas II, dropping him from the rolls effective April 24, 2012 is **AFFIRMED**.

A copy of this Decision shall be furnished the Commission on Audit-PNP for its reference and appropriate action.

Quezon City.<sup>10</sup> (Emphasis in the original.)

Alatraca's motion for reconsideration was denied on February 16, 2016.<sup>11</sup>

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<sup>6</sup> *Id.* at 87-88.

<sup>7</sup> *Id.* at 89-90.

<sup>8</sup> *Id.* at 70-73. The dispositive portion reads:

**WHEREFORE**, premises considered, the Appeal of EX-PSINP. JULIUS TUGADE ALATRACA is hereby **DENIED**. The Resolution of the Chief, PNP dated October 7, 2013, is hereby affirmed.

**SO ORDERED.**

<sup>9</sup> *Supra* note 4.

<sup>10</sup> *Rollo*, p. 115.

<sup>11</sup> *Id.* at 130-134; penned by Commissioner Robert S. Martinez, with the concurrence of Chairperson Commissioner Alicia dela Rosa-Bala and Commissioner Nieves L. Osorio. The dispositive portion reads:

**WHEREFORE**, the motion for reconsideration of Julius T. Alatraca, former Police Senior Inspector, Police Security and Protection Group, National Headquarters, Philippine National Police, Quezon City, is hereby **DENIED**. Accordingly, the CSC Decision No. 15-0822 dated October 28, 2015, which affirmed the Resolution dated September 22, 2014 issued by then Department of Interior and Local Government (DILG) Secretary and National Police Commission (NAPOLCOM) Chairman Manuel A. Roxas II, dropping him from the rolls effective April 24, 2012 **STANDS**.

Quezon City. *Id.* at 134 (Emphasis in the original.)

On appeal *via* Petition for Review under Rule 43 of the Rules of Court, the CA found overwhelming evidence to prove that Alatraca was AWOL from January 25 to April 21, 2012.<sup>12</sup> While admittedly, Alatraca received Special Order No. 175 on August 17, 2012 or beyond the five-day period required under Section 93, Rule 19 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), Alatraca was afforded due process when he availed of all the procedural remedies available to him. Further, Alatraca should reimburse the salary he received for the months that he did not report for work. The dispositive portion of the Decision dated October 24, 2017 reads:

**WHEREFORE**, the petition is **DENIED**. The Decision of the Civil Service Commission dated 28 October 2015 dropping petitioner Julius Tugade Alatraca is **AFFIRMED**.

The petitioner Julius Tugade Alatraca is **ORDERED** to reimburse the Government in the amount equivalent to the salary that he drew for the period that he was absent without leave. Let a copy of this Decision be sent to the petitioner at his last known address as appearing in his 201 files pursuant to Section 2A, Rule XII of CSC Memorandum Circular No. 15, Series of 1999, as well as to the address given in the petition.

SO ORDERED. (Emphasis in the original.)

The CA denied Alatraca's motion for reconsideration on March 20, 2018.<sup>13</sup> Hence, this petition.

Alatraca insists that he did not incur absences from January 25 to April 21, 2012, as evidenced by (1) the Complaint-Affidavit<sup>14</sup> he filed with the Office of the Ombudsman on February 29, 2012, (2) the PNP General Hospital Out-Patient Consultation Sheet<sup>15</sup> showing that he reported for work on April 30, 2012 but had to go to the hospital, and (3) his pay slips<sup>16</sup> for the months of February, March, April and May indicating that he received his full salary for these months. He reiterates that he was denied due process when he was not informed that he was dropped from the rolls within the five-day period required under RRACCS.

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<sup>12</sup> *Supra* note 2.

<sup>13</sup> *Supra* note 3.

<sup>14</sup> *Id.* at 91-95.

<sup>15</sup> *Id.* at 96.

<sup>16</sup> *Id.* at 98, 106-108.

In its Comment,<sup>17</sup> the Office of the Solicitor General (OSG) counters that the petition should be dismissed outright since the issue raised involves question of fact that is not cognizable by this Court in a Rule 45 Petition for Review on *Certiorari*. In any event, the CA did not err in dropping Alatraca from the roll of employees for being AWOL. Alatraca replied that the factual findings of the CA do not conform to the evidence, hence, this Court has the authority to review and reverse these factual findings.<sup>18</sup>

### RULING

The petition is bereft of merit.

Well-settled is the rule that only questions of law may be raised in a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court. In *Velayo-Fong v. Sps. Velayo*,<sup>19</sup> this Court distinguished a question of law from a question of fact, to wit:

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.<sup>20</sup>

Here, Alatraca seeks this Court's determination of the weight, credence, and probative value of the evidence presented. This issue is factual in character and not cognizable by this Court in a Petition for Review under Rule 45. On this score, the petition must fail. We are not a trier of facts. It is not for the Court to weigh these pieces of evidence all over again.

Furthermore, factual findings of quasi-judicial bodies like the CSC, when adopted and confirmed by the CA and if supported by

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<sup>17</sup> *Id.* at 373-384.

<sup>18</sup> *Id.* at 401-406.

<sup>19</sup> 539 Phil. 377 (2006), quoted in *Binay v. Odeña*, 551 Phil. 681, 689 (2007).

<sup>20</sup> *Id.* at 386-387.

substantial evidence, are accorded respect and even finality by this Court. While we have recognized several exceptions to this rule,<sup>21</sup> none of these exceptions find application in this case. Thus, we find no cogent reason to disturb the findings of the CSC and the CA as these are amply supported by the evidence on record.

Section 19,<sup>22</sup> Rule 43 of the RRACCS,<sup>23</sup> states that a public official or employee may be separated from service or dropped from the rolls without prior notice if he/she has been continuously absent without official leave for a period of at least 30 working days. AWOL means that the employee is leaving or abandoning his post without justifiable reason and without notifying his employer.<sup>24</sup>

In this case, Alatraca failed to adduce evidence to prove his daily attendance in his office from January 25 to April 21, 2012. Foremost, the Complaint-Affidavit and Post Consultation Sheet are not proof that Alatraca reported for work, but only that he was attending to his personal concerns. Secondly, pay slips are not conclusive proof of attendance but only evidence that an employee received his salary for the particular months. While the best evidence to prove attendance in office is the daily time record duly signed by the employee and verified by his or immediate superior,<sup>25</sup> any other

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<sup>21</sup> The exceptions are: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, will justify a different conclusion.

<sup>22</sup> Sec. 93. Grounds and Procedure for Dropping from the Rolls. — Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls subject to the following procedures:

a. Absence Without Approved Leave

1. An officer or employee who is continuously absent without official leave (AWOL) for at least thirty (30) working days shall be separated from the service or dropped from the rolls without prior notice. He/She shall, however, be informed of his/her separation not later than five (5) days from its effectivity which shall be sent to the address on his/her 201 files or to his/her last known address;

<sup>23</sup> Superseding Section 2 of Rule XII of the Omnibus Rules on Appointments and Other Personnel Actions in the Civil Service (MC No. 40, Series of 1998, as amended by MC No. 15, Series of 1999).

<sup>24</sup> *Office of the City Mayor of Angeles City v. Villaroman*, G.R. No. 234630, June 10, 2019, citing *Pablo Borbon Memorial Institute of Technology v. Vda. De Bool*, 505 Phil. 240, 246 (2005). See also *Petilla v. CA*, 468 Phil. 395, 408 (2004).

<sup>25</sup> See *Re: Jovencio G. Oliveros, Jr.*, 579 Phil. 298 (2008).

means of recording attendance may be allowed.<sup>26</sup> If indeed, members of the PSPG are not required to log-in or out or to maintain a logbook of attendance, Alatraca could have presented other evidence to prove his presence or leave of absence from work, *e.g.* certification from his immediate superior, affidavits from his officemates, or work-related documents showing his signature and date of signing.<sup>27</sup> He did not.

Moreover, Alatraca was not denied due process. Dropping from the rolls is not disciplinary in nature.<sup>28</sup> It shall not result in the forfeiture of any benefit of the public official or employee concerned, nor disqualification of the public official or employee from re-employment in the government. In *Plaza II v. Cassion*,<sup>29</sup> we held that since dropping from the rolls is not an administrative sanction, the public official or employee need not be notified or be heard.<sup>30</sup> In any event, Alatraca was given all the opportunity to contest Special Order No. 175, from seeking reconsideration to the Director of the PSPG, to filing an appeal to the Chief of the PNP, to the DILG, to the CSC, and thereafter filing a petition for review to the CA, and lastly, to this Court. The fundamental rule of due process requires that a person be accorded notice and an opportunity to be heard. These requisites were observed as Alatraca was informed, albeit belatedly,<sup>31</sup> and given the opportunity to present his side.

Lastly, Alatraca should reimburse the salary he received corresponding to the period of his unauthorized leave of absence. Under Section 50 of Memorandum Circular No. 41, series of 1998, an official or employee who is absent without approved leave shall not be entitled to receive his salary corresponding to the period of his unauthorized leave of absence.<sup>32</sup> In this regard, the dropping from the

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<sup>26</sup> CSC Memorandum Circular No. 21, Series of 1991, June 4, 1991.

<sup>27</sup> In *Palecpec, Jr. v. Hon. Davis*, 555 Phil. 675, 689 (2007), we set the minimum requirements to be complied with in recording the attendance of employees of the civil service, other than by DTR, *viz.*: “Although it is true that attendance of civil service employees may be recorded by means other than the DTR, CSC Memorandum Circular No. 21, Series of 1991, clearly requires that these records must (1) provide the respective names and signatures of the employees; (2) indicate their time of arrival and departure; and (3) be subject to verification.”

<sup>28</sup> RRACCS, Rule 19:

Section 96. *Dropping From the Rolls; Non-Disciplinary in Nature.* — This mode of separation from the service for unauthorized absences or unsatisfactory or poor performance or physical or mental incapacity is non-disciplinary in nature and shall not result in the forfeiture of any benefit on the part of the official or employee or in disqualification from reemployment in the government.

<sup>29</sup> 479 Phil. 171, 181 (2004), cited in *Civil Service Commission v. Plopinio*, 808 Phil. 318 (2017).

<sup>30</sup> *Id.* at 181.

<sup>31</sup> Alatraca received Special Order No. 175 on August 17, 2012; see *id.* 33.

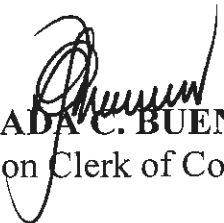
<sup>32</sup> *In Re: Absence without official leave of Macalintal*, 382 Phil. 314 (2000).

roll of employees shall take effect on **April 21, 2012**, the last day that Alatraca was AWOL, and not **April 24, 2012**,<sup>33</sup> as stated by the CSC in the dispositive portion of the Decision dated October 28, 2015.

**FOR THESE REASONS**, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated October 24, 2017 and Resolution dated March 20, 2018 of the Court of Appeals in CA-G.R. SP No. 144531 are **AFFIRMED** with **MODIFICATION** in that Julius Tugade Alatraca is dropped from the roll of employees of the Philippine National Police effective **April 21, 2012**.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *m.w./de*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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PUBLIC ATTORNEY'S OFFICE  
Special and Appealed Cases Service  
Counsel for Petitioner  
DOJ Agencies Building, Diliman  
1101 Quezon City

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The Director  
Police Security and Protection Group  
PSPG, PNP Headquarters Camp Crame  
1111 Quezon City

Court of Appeals (x)  
Manila  
(CA-G.R. SP No. 144531)

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

CIVIL SERVICE COMMISSION  
Batasang Pambansa Complex  
1126 Quezon City  
(Decision No. 15-0822)

The Chief  
PHILIPPINE NATIONAL POLICE  
PNP Headquarters, Camp Crame  
1111 Quezon City

Office of the Chairman  
NATIONAL POLICE COMMISSION  
DILG-NAPOLCOM Center  
NAPOLCOM Building, EDSA cor. Quezon  
Avenue, 1100 Quezon City

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<sup>33</sup> See *rollo*, p. 115.

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