



**Republic of the Philippines**  
**Supreme Court**  
**Baguio City**

**SECOND DIVISION**

**FRANCISCO C. ADALIM,**  
Petitioner,

- versus -

**ERNESTO TANIÑAS, JORGE  
ORITA, MA. IRMA DAIZ (deceased),  
YOLANDO DEGUINION, GRACE  
LIM, EMMA TANIÑAS, ISIDRO  
BUSA, MA. NALYN DOTINGCO,  
ESTER ULTRA, FRANCISCO  
ESPORAS, ENRICO BEDIASAY,  
JESUS CHERREGUINE,\* AIDA  
EVIDENTE, RODRIGO TANIÑAS,  
VIRGILIO ADENIT, CLARITA  
DOCENA, ERENE DOCENA, GUIO  
BALICHA, LUZ BACULA,  
PERFECTO MAGRO, ANACLETO  
EBIT, DOLORES PEÑAFLOR,  
ERWENIA BALMES, CECILIO  
CEBUANO, MA. ELENA ABENIS,  
DANILO ALEGRE, and THE COURT  
OF APPEALS (FIFTH DIVISION),**

Respondents.

**G.R. No. 198682**

Present:

CARPIO, *J.*, Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, *JJ.*

Promulgated:

APR 16 2013

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**DECISION**

**CARPIO, *J.*:**

**The Case**

This Petition for Review on Certiorari<sup>1</sup> seeks to reverse the Court of Appeals' Decision<sup>2</sup> dated 28 January 2011 and its Resolution<sup>3</sup> dated 6

\* Sometimes referred to as "Jesus Cherriguinne" or "Jesus Cherriguine."

<sup>1</sup> Under Rule 45 of the 1997 Rules of Civil Procedure.

<sup>2</sup> *Rollo*, pp. 78-91. Penned by Associate Justice Rebecca De Guia-Salvador with Associate Justices Sesinando E. Villon and Amy C. Lazaro-Javier, concurring.

<sup>3</sup> *Id.* at 92-93.

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September 2011 in CA-G.R. SP No. 110703. The Court of Appeals (CA) affirmed Civil Service Commission (CSC) Resolution No. 09-1197 dated 10 August 2009.<sup>4</sup>

### **The Facts**

During the 10 May 2004 elections, Diego Lim (Lim) was proclaimed Mayor of Taft, Eastern Samar. Petitioner Francisco C. Adalim (Adalim), a candidate for the same position, filed an election protest against Lim before the Regional Trial Court of Borongan, Eastern Samar, Branch 1 (RTC). On 5 August 2005, the RTC ruled in favor of Adalim and declared him as the winning candidate in the elections. On 10 August 2005, Lim appealed the RTC decision with the Commission on Elections (Comelec).

On 11 August 2005, the RTC granted Adalim's motion for execution pending appeal. Lim, however, continued to hold office in the municipal building. On 13 August 2005, Adalim issued a Memorandum directing all municipal employees "to log-in and log-out at the Office of the Mayor, 4<sup>th</sup> Floor, Cyrus Hotel." On 15 August 2005, Adalim issued another Memorandum stating that the local government unit of Taft, Eastern Samar was temporarily relocated at Cyrus Hotel. On the same day, Lim filed a Petition for Certiorari with Temporary Restraining Order or *Status Quo* Order before the Comelec against the motion for execution. Thereafter, the Comelec issued a twenty-day *Status Quo* Order effective 23 August to 12 September 2005.<sup>5</sup> On 10 October 2005, the Comelec denied Lim's petition for certiorari. Lim filed a Motion for Reconsideration.

On 24 October 2005, Adalim issued Memorandum No. 03-11-2005 directing all municipal employees to submit their Daily Time Records (DTRs); otherwise, they would not be paid their salaries. On 23 November 2005, the Office of the Municipal Treasurer issued a Certification listing the employees, which included respondent employees, with no DTRs for the months of August, September, and October 2005, to wit:

1. Grace C. Lim – Mun. Budget Officer
2. Ma. Irma D. Daiz – MPDCO/ Local Civil Registrar
- x x x
4. Erwenia Balmes – Social Welfare Officer III
5. Dolores Peñaflor – Administrative Asst. II
6. Aida Evidente – Budgeting Aide
7. Emma Taniñas – Revenue Collector Clerk
8. Rodrigo V. Taniñas – Revenue Collector Clerk
9. Nalyn V. Dotingco – Nurse II
10. Clarita C. Docena – Midwife II
- x x x

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<sup>4</sup> Id. at 68-77.

<sup>5</sup> Id. at 52.

12. Elena Abenis – Midwife II
13. Francisco Esporas – Security Guard II
14. Guio Balicha – Security Guard I
15. Ernesto Taniñas – Security Guard I
16. Enrico Bediasay – Security Guard I
17. Luz S. Bacula – Day Care Worker
18. Jorge Orita – Community Affairs Asst.
- x x x
20. Jesus Aquiatan Cherreguine – Administrative Aide III
21. Perfecto Magro – Administrative Aide III
22. Yolando Degunion – Administrative Aide III
23. Anacleto Ebit – Administrative Aide I
24. Erene V. Docena – Agricultural Technologist
25. Ester D. Ultra – Agricultural Technologist
26. Danilo Alegre – Agricultural Technologist
27. Isidro Busa – Administrative Aide I
28. Virgilio Adenit – Administrative Aide I
29. Cecilio Cebuano – Administrative Aide I<sup>6</sup>

On the same day, Adalim issued memoranda dropping respondent employees from the rolls due to absence without official leave (AWOL).<sup>7</sup>

On 26 May 2006, respondent employees, except Isidro Busa and Ester Ultra, filed an appeal with the Civil Service Commission Regional Office (CSCRO) No. VIII. On 20 July 2006, Isidro Busa and Ester Ultra filed a similar appeal. Respondent employees claimed that the memoranda dropping them from the rolls were issued without due process and without authority. They argued that the issue as to who won the mayoralty elections was not yet resolved at the time they were dropped from the rolls. Moreover, respondent employees denied that they were on AWOL. They alleged that they were regularly reporting for work in the municipal building until Adalim occupied it on 7 March 2006 and prevented them from entering.

In a Comment dated 9 July 2006, Adalim sought the dismissal of the appeal for being filed out of time, for failure to pay the appeal fee, and for lack of merit. Adalim alleged that he had the authority to issue the memoranda based on the writ of execution pending appeal issued by the RTC. Adalim further claimed that respondent employees were on AWOL because they failed to submit DTRs and approved leave of absences.

Subsequently, CSCRO No. VIII directed respondent employees to attach the proof of payment of their appeal fee, to which they complied. In an Order dated 27 October 2006, the CSCRO No. VIII granted respondent employees' appeal and ordered their reinstatement with payment of back

<sup>6</sup> CA rollo, p. 34.

<sup>7</sup> Separate Memoranda issued by Adalim to respondent employees state: "In accordance with Section 2(a), Rule XII, CSC Memorandum Circular No. 15, s. 1999 and Section 63 of CSC Memorandum Circular No. 14, s. 1999, you are hereby separated from the service or dropped from the rolls of LGU employees, effective 5 days from receipt hereof, for having been continuously absent without approved leave (AWOL) since August 15, 2005 until the present, or for a period of 3 months and 7 days. x x x."

salaries. The CSCRO No. VIII ruled that Adalim had no authority to drop respondent employees from the rolls since the issue on who won the mayoralty elections was not yet resolved during the period that respondent employees were declared on AWOL. The CSCRO No. VIII further found that respondent employees continued to report in the municipal building as evidenced by the police blotter. Respondent employees did not log in on the office logbook because they were denied access to the office logbook.

Adalim filed a motion for reconsideration but the same was denied by CSCRO No. VIII. On 17 January 2007, Adalim appealed to the CSC.

### **The Ruling of the Civil Service Commission**

On the basis of Adalim's appeal alone, the CSC issued Resolution No. 07-1845<sup>8</sup> dated 27 September 2007, reversing the decision of the CSCRO No. VIII. The CSC found merit in Adalim's arguments and held that respondent employees indeed failed to report at the assigned temporary work station causing them to be on AWOL. Hence, respondent employees filed their motion for reconsideration.

In Resolution No. 09-0262<sup>9</sup> dated 24 February 2009, the CSC reversed Resolution No. 07-1845 and directed Adalim to reinstate respondent employees to their respective positions with payment of their salaries and benefits effective August 2005 up to their actual reinstatement. Adalim moved for reconsideration, which the CSC denied in its Resolution No. 09-1197<sup>10</sup> dated 10 August 2009. The dispositive portion of the CSC Resolution reads:

WHEREFORE, the Motion for Reconsideration of Mayor Francisco Adalim is DENIED. Accordingly, CSC Resolution No. 09-0262 dated February 24, 2009 which directed Mayor Adalim to reinstate Tani[ñ]as, *et al.* to their respective positions and pay their salaries and benefits effective August 2005 up to their actual reinstatement, STANDS with modification that the ruling on reinstatement is not applicable to Ma. Irma D. Daiz who died on August 31, 2007 and Isidro Busa who retired on September 14, 2008. They are, however, still entitled to the salaries and benefits from August 2005 up to the termination of their relation with the Municipal Government of Taft.

The Motion for Execution of Tani[ñ]as, *et al.* is GRANTED. Accordingly, Mayor Francisco Adalim is directed to implement the said decision within five (5) days from receipt hereof, otherwise, he may be cited for contempt and be held liable for Conduct Prejudicial to the Best Interest of the Service or Neglect of Duty.<sup>11</sup>

<sup>8</sup> *Rollo*, pp. 48-58.

<sup>9</sup> *Id.* at 59-67.

<sup>10</sup> *Id.* at 68-77.

<sup>11</sup> *Id.* at 77.

Accordingly, Adalim filed a petition for review with the CA.

### **The Ruling of the Court of Appeals**

In its 28 January 2011 Decision, the CA dismissed Adalim's petition for want of merit and affirmed both Resolution Nos. 09-0262 and 09-1197 of the CSC. The CA emphasized that:

x x x this case involves an administrative proceeding, hence, the technical rules of procedure under the Rules of Court need not be strictly applied pursuant to Section 3, Rule 1 of the Uniform Rules on Administrative Cases in the Civil Service, which provides:

“Section 3. *Technical Rules in Administrative Investigations.* - Administrative investigations shall be conducted without necessarily adhering strictly to the technical rules of procedure and evidence applicable to judicial proceedings.”<sup>12</sup>

Hence, this petition.

### **The Issues**

Adalim seeks a reversal and assigns the following errors:

#### I.

THE HONORABLE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN GIVING DUE COURSE TO THE APPEAL OF [RESPONDENT EMPLOYEES] WITH THE CSC DESPITE THE FACT THAT IT WAS FILED OUT OF TIME OR AFTER MORE THAN SIX (6) MONTHS FROM THEIR RECEIPT OF THE DISMISSAL ORDER.

#### II.

THE HONORABLE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN GIVING DUE COURSE TO THE APPEAL OF [RESPONDENT EMPLOYEES] WITH THE RESPONDENT CSC DESPITE THE FACT THAT THE APPEAL FEE WAS NOT PAID UNTIL OCTOBER 27, 2007 OR ELEVEN (11) MONTHS AFTER THEIR RECEIPT OF THE DISMISSAL ORDER. WORSE, THE APPEAL FEE WAS PAID ON THE VERY SAME DAY WHEN THE CSC REGIONAL OFFICE NO. 8 PROMULGATED ITS DECISION.

#### III.

THE HONORABLE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN AFFIRMING THE DECISION OF THE CSC DESPITE THE FACT THAT THE LATTER ADMITTED ISSUES NOT PRESENTED OR ALLEGED IN THE PLEADINGS.

<sup>12</sup>

Id. at 88.

## IV.

THE HONORABLE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN GIVING DUE COURSE TO THE APPEAL OF [RESPONDENT EMPLOYEES] WITH THE CSC WHEN IT DECREED: “HOWEVER, THE ISSUE ON WHO IS THE DULY ELECTED MAYOR DURING THE PERIOD WHEN TANIÑAS, ET. AL. WERE DECLARED ON ABSENCE WITHOUT OFFICIAL LEAVE (AWOL) WAS STILL UNRESOLVED BY THE COMELEC”, THEREBY DISREGARDING THE WRIT OF EXECUTION PENDING APPEAL ISSUED ON AUGUST 11, 2005 BY THE REGIONAL TRIAL COURT ON THE ELECTION PROTEST CASE.<sup>13</sup>

**The Ruling of the Court**

The petition has no merit.

At the outset, Adalim assails the CSC’s liberal application of its rules. In a number of cases, we upheld the CSC’s decision relaxing its procedural rules to render substantial justice.<sup>14</sup> The Revised Rules on Administrative Cases in the Civil Service themselves provide that administrative investigations shall be conducted without strict recourse to the technical rules of procedure and evidence applicable to judicial proceedings.<sup>15</sup> The case before the CSC involves the security of tenure of public employees protected by the Constitution.<sup>16</sup> Public interest requires a resolution of the merits of the appeal instead of dismissing the same based on a rigid application of the CSC Rules of Procedure.<sup>17</sup> Accordingly, both the CSC and the CA properly allowed respondent employees’ appeal despite procedural lapses to resolve the issue on the merits.

Having settled the procedural issue, we resolve the main issue of whether respondent employees were validly dropped from the rolls by Adalim due to AWOL.

Basic is the rule that in petitions for review on certiorari under Rule 45 of the Rules of Court, only questions of law may be raised by the parties and passed upon by this Court. On the other hand, the issue of the AWOL of respondent employees is a question of fact.<sup>18</sup> Time and again, this Court held that factual findings of quasi-judicial bodies like the CSC, when adopted and affirmed by the CA and if supported by substantial evidence, are accorded

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<sup>13</sup> Id. at 13-15.

<sup>14</sup> *Commission on Appointments v. Paler*, G.R. No. 172623, 3 March 2010, 614 SCRA 127 citing *Philippine Amusement and Gaming Corporation v. Angara*, 511 Phil. 486 (2005); *Rosales, Jr. v. Mijares*, 485 Phil. 209 (2004); *Constantino-David v. Pangandaman-Gania*, 456 Phil. 273 (2003).

<sup>15</sup> CSC Resolution No. 1101502 (2011), Sec. 3.

<sup>16</sup> *Rosales, Jr. v. Mijares*, supra.

<sup>17</sup> Id.

<sup>18</sup> *Batangas State University v. Bonifacio*, 514 Phil. 209 (2004).

respect and even finality by this Court.<sup>19</sup> While this Court has recognized several exceptions to this rule, we do not find any of these exceptions in the present case.

Adalim dropped respondent employees from the rolls due to AWOL using CSC Memorandum Circular No. 14<sup>20</sup> as basis. This means that the employees left or abandoned their posts for a continuous period of thirty (30) calendar days or more without any justifiable reason and notice to their superiors.<sup>21</sup>

Both the CSC and the CA found that respondent employees did not commit AWOL. Despite the unresolved mayoralty issue in Taft, Eastern Samar, respondent employees were continuously performing their functions in the municipal building during the period that they were declared on AWOL, or during August, September and October 2005. The CA, adopting the findings of the CSC, held:

x x x Contrary to petitioner Adalim's allegations, in the midst of the political turmoil, respondents were seen continuously performing their functions at the municipal hall. This fact was confirmed by the municipal vice mayor, the sangguniang bayan members, the barangay treasurers, and reported in the police blotter of the Philippine National Police. The pieces of evidence submitted by the respondents only during the motion for reconsideration stage should not be taken against them. As they had explained, they were never given the opportunity by the CSC to file an answer to the appeal filed by Adalim, and that the motion for reconsideration was the first pleading that they had filed. x x x.<sup>22</sup>

The records further reveal that respondent employees never intended to go on leave or abandon their posts. The CSC held that:

After a thorough re-examination of the records, the Commission took note of the peculiar circumstances of the instant case taking into consideration the uncertain political landscape in the Municipal Government of Taft after the May 2004 national and local elections. For reporting to the wrong political camp, the movants, obviously, have become victims and were caught in the cross-fire, so to speak, between two political rivals x x x. The situation is further aggravated when the authorities (Regional Trial Court, Department of the Interior and Local Government and the Commission on Elections) who are supposed to settle

<sup>19</sup> *Binay v. Odeña*, G.R. No. 163683, 8 June 2007, 524 SCRA 248 citing *Asiatic Development Corporation v. Sps. Brogada*, 527 Phil. 496 (2006).

<sup>20</sup> Section 63 of CSC Memorandum Circular No. 14, s. 1999 provides:

Effect of absences without approved leave. - An official or an employee who is continuously absent without approved leave for at least thirty (30) working days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. He shall, however, be informed, at his address appearing on his 201 file or at his last known written address, of his separation from the service, not later than five (5) days from its effectivity x x x.

<sup>21</sup> *Petilla v. Court of Appeals*, 468 Phil. 395 (2004).

<sup>22</sup> *Rollo*, p. 88.

the controversy issue conflicting decisions. **As such it is to be expected that the employees did not know whom to follow between Lim and Adalim because of the conflicting views.** x x x.<sup>23</sup> (Emphasis supplied)

As pointed out by the CA, during the period that respondent employees were declared on AWOL, the petition for certiorari against the writ of execution and the appeal on the election protest were both pending before the Comelec. The Comelec also issued a *Status Quo* order. Thus, the CA aptly found that respondent employees “in this particular situation were just victims of the ill-effects of the intense tug-of-war between Lim and Adalim for the mayoralty position in Taft, Eastern Samar.”<sup>24</sup>

Thus, we find no reason to depart from the decision of the CA, which affirmed that of the CSC, ordering respondent employees’ reinstatement with payment of back salaries.

**WHEREFORE**, we **DENY** the petition. We **AFFIRM** the Decision dated 28 January 2011 and the Resolution dated 6 September 2011 in CA-G.R. SP No. 110703. Costs against petitioner.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

**WE CONCUR:**



**ARTURO D. BRION**  
Associate Justice


<sup>23</sup> Id. at 65-66.

<sup>24</sup> Id. at 88-90.



  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
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.

  
**ANTONIO T. CARPIO**  
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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice