Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PHILIPPINE POSTAL CORPORATION, Petitioner,	**G.R. No. 173590** Present:
- versus -	CARPIO, *J.*, Chairperson, BRION,
COURT OF APPEALS and CRISANTO G. DE GUZMAN, Respondents.	DEL CASTILLO, PERLAS-BERNABE, and LEONEN,* *JJ.*

Promulgated:
DEC 09 2013

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DECISION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated April 4, 2006 and Resolution[3] dated July 19, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 88891 which reversed and set aside the Resolutions dated November 23, 2004[4] and January 6, 2005[5] of petitioner Philippine Postal Corporation (PPC), through its then Postmaster General and Chief Executive Officer (CEO) Dario C. Rama (PG Rama), finding that the latter gravely abused its discretion when it revived the administrative charges against respondent Crisanto G. De Guzman (De Guzman) despite their previous dismissal.

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* Designated Acting Member per Special Order No. 1627.
1 *Rollo*, pp. 14-43.
2 Id. at 44-56. Penned by Associate Justice Monina Arevalo-Zenarosa, with Associate Justices Andres B. Reyes, Jr. and Rosmari D. Carandang, concurring.
3 Id. at 57-59.
4 Id. at 85-101. Penned by Postmaster General and Dario C. Rama.
5 No copy on record.

The Facts

Sometime in 1988, De Guzman, then a Postal Inspector at the Postal Services Office,[6] was investigated by Regional Postal Inspector Atty. Raul Q. Buensalida (Atty. Buensalida) in view of an anonymous complaint charging him of dishonesty and conduct grossly prejudicial to the best interest of the service.[7] As a result thereof, Atty. Buensalida recommended[8] that De Guzman be formally charged with twelve (12) counts of the same offenses and eventually be relieved from his post to protect the employees and witnesses from harassment.

Since the Postal Services Office was then a line-agency of the Department of Transportation and Communication (DOTC), Atty. Buensalida's investigation report was forwarded to the said department's Investigation Security and Law Enforcement Staff (ISLES) for further evaluation and approval. Contrary to the findings of Atty. Buensalida, however, the ISLES, through a Memorandum[9] dated February 26, 1990 prepared by Director Antonio V. Reyes (Dir. Reyes), recommended that De Guzman be exonerated from the charges against him due to lack of merit. The said recommendation was later approved by DOTC Assistant Secretary Tagumpay R. Jardiniano (Asec. Jardiniano) in a Memorandum[10] dated **May 15, 1990**.

On February 6, 1992, Republic Act No. (RA) 7354,[11] otherwise known as the "Postal Service Act of 1992," was passed. Pursuant to this law, the Postal Services Office under the DOTC was abolished, and all its powers, duties, and rights were transferred to the PPC.[12] Likewise, officials and employees of the Postal Services Office were absorbed by the PPC.[13]

Subsequently, or on July 16, 1993, De Guzman, who had by then become Chief Postal Service Officer, was formally charged[14] by the PPC, through Postmaster General Eduardo P. Pilapil (PG Pilapil), for the same acts of "dishonesty, gross violation of regulations, and conduct grossly

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6 Formerly the Bureau of Posts.

7 *Rollo*, p. 45.

8 Id. at 68. Investigation Report dated August 3, 1988; id. at 61-69.

9 Id. at 70-71.

10 Id. at 72.

11 "AN ACT CREATING THE PHILIPPINE POSTAL CORPORATION, DEFINING ITS POWERS, FUNCTIONS AND RESPONSIBILITIES, PROVIDING FOR REGULATION OF THE INDUSTRY AND FOR OTHER PURPOSES CONNECTED THEREWITH."

12 Section 29 of RA 7354 provides:

> Sec. 29. Abolition of the Postal Services Office. — The Postal Services Office under the Department of Transportation and Communications, is hereby abolished. All powers and duties, rights and choses of actions, vested by law or exercised by the Postal Services Office and its predecessor Bureau of Posts, are hereby transferred to the Corporation.
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> x x x x

13 Id.

14 *Rollo*, pp. 73-74. Docketed as PPC ADM. CASE No. 94-4803.

prejudicial to the best interest of the service, and the Anti-graft law, committed as follows":

> Investigation disclosed that while you were designated as Acting District Postal Inspector with assignment at South Cotabato District, Postal Region XI, Davao City, you personally made unauthorized deductions and/or cuttings from the ten (10%) percent salary differential for the months of January-March, 1988, when you paid each of the employees of the post office at Surallah, South Cotabato, on the last week of April 1988, and you intentionally failed to give to Postmaster Juanito D. Dimaup, of the said post office his differential amounting to ₱453.91, Philippine currency; that you demanded and required Letter Carrier Benjamin Salero, of the aforestated post office to give fifty (₱50.00) pesos out of the aforesaid differential; that you personally demanded, take away and encashed the salary differential check No. 008695317 in the total amount of ₱1,585.67, Philippine currency, of Postmaster Benjamin C. Charlon, of the post office at Lake Cebu, South Cotabato, for your own personal gain and benefit to the damage and prejudice of the said postmaster; that you personally demanded, required and received from Postmaster Peniculita B. Ledesma, of the post office of Sto. Niño, South Cotabato, the amount of ₱300.00, ₱200.00 and ₱100.00 for hazard pay, COLA differential and contribution to the affair "Araw ng Kartero and Christmas Party," respectively; that you personally demanded and required Letter Carrier Feliciano Bayubay, of the post office at General Santos City to give money in the amount of ₱1,000.00, Philippine Currency, as a condition precedent for his employment in this Corporation, and you again demanded and personally received from the said letter carrier the amount of ₱300.00 Philippine currency, as gift to the employees of the Civil Service Commission, Davao City to facilitate the release of Bayubay's appointment; that you demanded and forced Postmaster Felipe Collamar, Jr., of the post office at Maitum, South Cotabato to contribute and/or produce one (1) whole Bariles fish for shesami (sic), and you also required and received from the aforesaid postmaster the amount of ₱500.00 Philippine currency; that you demanded and required Postmaster Diosdado B. Delfin to give imported wine and/or ₱700.00, Philippine currency, for gift to the outgoing Regional Director Escalada; and that you failed to liquidate and return the substantial amount of excess contributions on April, 1987, June, 1987 and December, 1987, for Postal Convention at MSU, arrival of Postmaster General Banayo and Araw ng Kartero and Christmas Party, respectively, for your own personal gain and benefit to the damage and prejudice of all the employees assigned at the aforementioned district.

In a Decision[15] dated **August 15, 1994**, De Guzman was found guilty as charged and was dismissed from the service. Pertinently, its dispositive reads that "[i]n the interest of the service, it is directed that this decision be implemented immediately."[16]

It appears, however, that the afore-stated decision was not implemented until five (5) years later when Regional Director Mama S.

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15 Id. at 75-77. Penned by Postmaster General Eduardo P. Pilapil.

16 Id. at 77.

Lalanto (Dir. Lalanto) issued a Memorandum[17] dated August 17, 1999 for this purpose. De Guzman lost no time in filing a motion for reconsideration,[18] claiming that: (*a*) the decision sought to be implemented was recalled on August 29, 1994 by PG Pilapil himself; and (*b*) since the decision had been dormant for more than five (5) years, it may not be revived without filing another formal charge.

The motion was, however, denied in a Resolution[19] dated **May 14, 2003**, pointing out that De Guzman failed to produce a copy of the alleged recall order even if he had been directed to do so.

Undaunted, De Guzman filed a second motion for reconsideration, which was resolved[20] on June 2, 2003 in his favor in that: (*a*) the Resolution dated May 14, 2003 denying De Guzman's first motion for Reconsideration was recalled; and (*b*) a formal hearing of the case was ordered to be conducted as soon as possible.

After due hearing, the PPC, through PG Rama, issued a Resolution[21] dated **November 23, 2004**, finding De Guzman guilty of the charges against him and consequently dismissing him from the service. It was emphasized therein that when De Guzman was formally charged on July 16, 1993, the complainant was the PPC, which had its own charter and was no longer under the DOTC. Thus, the ISLES Memorandum dated February 26, 1990 prepared by Dir. Reyes which endorsed the exoneration of De Guzman and the dismissal of the complaints against him was merely recommendatory. As such, the filing of the formal charge on July 16, 1993 was an obvious rejection of said recommendation.[22]

De Guzman's motion for reconsideration was denied initially in a Resolution[23] dated **January 6, 2005**, but the motion was, at the same time, considered as an appeal to the PPC Board of Directors (Board).[24] The Board, however, required PG Rama to rule on the motion. Thus, in a Resolution[25] dated **May 10, 2005**, PG Rama pointed out that, being the third motion for reconsideration filed by De Guzman, the same was in gross violation of the rules of procedure recognized by the PPC, as well as of the Civil Service Commission (CSC), which both allowed only one (1) such motion to be entertained.[26] It was further held that *res judicata* was unavailing as the

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17 As stated in De Guzman's Letter dated August 18, 1999 to Postmaster General Nicasio P. Rodriguez; id. at 78-79.
18 Id.
19 Id. at 80-82. Penned by Postmaster General and CEO Diomedio P. Villanueva.
20 Id. at 83-84.
21 Id. at 85-101.
22 Id. at 94-95.
23 No copy on record
24 *Rollo*, p. 22.
25 Id. at 102-108.
26 Quoting the CSC Resolution No. 94-0521, the Disciplinary Rules and Procedures of the PPC, and the CSC M.C. No. 19, Series of 1999; id. at 103.

decision exonerating De Guzman was "only a ruling after a fact-finding investigation." Hence, the same could not be considered as a dismissal on the merits but rather, a dismissal made by an investigative body which was not clothed with judicial or quasi-judicial power.[27]

Meanwhile, before the issuance of the Resolution dated May 10, 2005, De Guzman elevated his case on **March 12, 2005**[28] to the CA *via* a special civil action for *certiorari* and mandamus,[29] docketed as CA-G.R. SP No. 88891, imputing grave abuse of discretion amounting to lack or excess of jurisdiction in that: (*a*) the case against him was a mere rehash of the previous complaint already dismissed by the DOTC, and therefore, a clear violation of the rule on *res judicata*; (*b*) the assailed PPC Resolutions did not consider the evidences submitted by De Guzman; (*c*) the uncorroborated, unsubstantiated and contradictory statements contained in the affidavits presented became the bases of the assailed Resolutions; (*d*) the Resolution dated November 23, 2004 affirmed a non-existent decision; (*e*) Atty. Buensalida was not a credible witness and his testimony bore no probative value; and (*f*) the motion for reconsideration filed by De Guzman of the Resolution dated November 23, 2004 is not the third motion for reconsideration filed by him.

On **June 10, 2005**, De Guzman appealed[30] the Resolution dated May 10, 2005 before the PPC Board, which resolution was allegedly received by De Guzman on May 26, 2005. Almost a year later, the Board issued a Resolution[31] dated **May 25, 2006**, denying the appeal and affirming with finality the Decision dated **August 15, 1994** and the Resolution dated **May 14, 2003**. The motion for reconsideration subsequently filed by De Guzman was likewise denied in a Resolution[32] dated **June 29, 2006**.

On April 4, 2006, the CA rendered a Decision[33] in CA-G.R. SP No. 88891, reversing the PPC Resolutions dated **November 23, 2004** and **January 6, 2005**, respectively. It held that the revival of the case against De Guzman constituted grave abuse of discretion considering the clear and unequivocal content of the Memorandum dated **May 15, 1990** duly signed by Asec. Jardiniano that the complaint against De Guzman was already dismissed.

Aggrieved, PPC moved for reconsideration which was, however, denied in a Resolution[34] dated July 19, 2006, hence, the instant petition.

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27 Id. at 104-105.
28 Id. at 23.
29 Id. at 109-138.
30 Id. at 139-141.
31 Id. at 142-144.
32 Id. at 145-146.
33 Id. at 44-56.
34 Id. at 57-59.

Meanwhile, on July 26, 2006, De Guzman filed an appeal of the PPC Board's Resolutions dated **May 25, 2006** and **June 29, 2006** with the CSC[35] which was, however, dismissed in Resolution No. 080815[36] dated May 6, 2008. The CSC equally denied De Guzman's motion for reconsideration therefrom in Resolution No. 090077[37] dated January 14, 2009.

The Issues Before the Court

The essential issues for the Court's resolution are whether: (*a*) De Guzman unjustifiably failed to exhaust the administrative remedies available to him; (*b*) De Guzman engaged in forum-shopping; and (*c*) the investigation conducted by the DOTC, through the ISLES, bars the filing of the subsequent charges by PPC.

The Court's Ruling

The petition is meritorious.

A. Exhaustion of administrative remedies.

The thrust of the rule on exhaustion of administrative remedies is that the courts must allow the administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence. It is presumed that an administrative agency, if afforded an opportunity to pass upon a matter, will decide the same correctly, or correct any previous error committed in its forum. Furthermore, reasons of law, comity and convenience prevent the courts from entertaining cases proper for determination by administrative agencies. Hence, premature resort to the courts necessarily becomes fatal to the cause of action of the petitioner.[38]

PPC claims that De Guzman failed to subscribe to the rule on exhaustion of administrative remedies since he opted to file a premature *certiorari* case before the CA instead of filing an appeal with the PPC Board, or of an appeal to the CSC, which are adequate remedies under the law.[39]

The Court agrees with PPC's submission.

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35 Id. at 337-338.
36 Id. at 326-332.
37 Id. at 333 -340.
38 *Gonzales v. CA*, 409 Phil. 684, 690-691 (2001).
39 *Rollo*, p. 27.

Under Section 21(d) of RA 7354, the removal by the Postmaster General of PPC officials and employees below the rank of Assistant Postmaster General may be appealed to the Board of the PPC, *viz.*:

> Sec. 21. Powers and Functions of the Postmaster General. — as the Chief Executive Officer, the Postmaster General shall have the following powers and functions:
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> x x x x
>
> (d) to appoint, promote, assign, reassign, transfer and remove personnel below the ranks of Assistant Postmaster General: Provided, That in the case of removal of officials and employees, the same may be appealed to the Board;
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> x x x x

This remedy of appeal to the Board is reiterated in Section 2(a), Rule II of the Disciplinary Rules and Procedures of the PPC, which provides further that the decision of the Board is, in turn, appealable to the CSC, *viz.*:

> Section 2. DISCIPLINARY JURISDICTION. – (a) The Board of Directors shall decide upon appeal the decision of the Postmaster General removing officials and employees from the service. (R.A. 7354, Sec. 21 (d)). The decision of the Board of Directors is appealable to the Civil Service Commission.

It is well-established that the CSC has jurisdiction over all employees of government branches, subdivisions, instrumentalities, and agencies, including government-owned or controlled corporations with original charters, and, as such, is the sole arbiter of controversies relating to the civil service.[40] The PPC, created under RA 7354, is a government-owned and controlled corporation with an original charter. **Thus, being an employee of the PPC, De Guzman should have, after availing of the remedy of appeal before the PPC Board, sought further recourse before the CSC**.

Records, however, disclose that while De Guzman filed on June 10, 2005 a notice of appeal[41] to the PPC Board and subsequently appealed the latter's ruling to the CSC on July 26, 2006, these were all after he challenged the PPC Resolution dated November 23, 2004 (wherein he was adjudged guilty of the charges against him and consequently dismissed from the service) in a petition for *certiorari* and mandamus before the CA (docketed as CA-G.R. SP No. 88891). That the subject of De Guzman's appeal to the Board was not the Resolution dated November 23, 2004 but the Resolution dated May 10, 2005 denying the motion for reconsideration of the first-

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40 *Olanda v. Bugayong*, 491 Phil. 626, 632 (2003), citing *Corsiga v. Defensor*, 439 Phil. 875, 883 (2002).
41 *Rollo*, pp. 139-141.

mentioned resolution is of no moment. In *Alma Jose v. Javellana*,[42] the Court ruled that an appeal from an order denying a motion for reconsideration of a final order or judgment is effectively an appeal from the final order or judgment itself.[43] Thus, finding no cogent explanation on De Guzman's end or any justifiable reason for his premature resort to a petition for *certiorari* and mandamus before the CA, the Court holds that he failed to adhere to the rule on exhaustion of administrative remedies which should have warranted the dismissal of said petition.

B. Forum-shopping.

PPC further submits that De Guzman violated the rule on forum-shopping since he still appealed the order of his dismissal before the PPC Board, notwithstanding the pendency of his petition for *certiorari* before the CA identically contesting the same.[44]

The Court also concurs with PPC on this point.

Aside from violating the rule on exhaustion of administrative remedies, De Guzman was also guilty of forum-shopping by pursuing two (2) separate remedies – petition for *certiorari* and appeal – that have long been held to be mutually exclusive, and not alternative or cumulative remedies.[45] **Evidently, the ultimate relief sought by said remedies which De Guzman filed only within a few months from each other**[46] **is one and the same – the setting aside of the resolution dismissing him from the service**. As illumined in the case of *Sps. Zosa v. Judge Estrella*,[47] wherein several precedents have been cited on the subject matter: [48]

> The petitions are denied. The present controversy is on all fours with *Young v. Sy*, in which we ruled that the successive filing of a notice of appeal and a petition for *certiorari* both to assail the trial court's dismissal order for non-suit constitutes forum shopping. Thus,
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> > **Forum shopping consists of filing multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment**.
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> > **There is forum shopping where there exist: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such**

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42 G.R. No. 158239, January 25, 2012, 664 SCRA 11.
43 Id. at 20.
44 *Rollo*, p. 38.
45 See *Young v. Sy*, 534 Phil. 246, 266 (2006).
46 De Guzman filed the petition for *certiorari* before the CA on March 12, 2005, while he filed the appeal before the PPC Board on June 10, 2005.
47 593 Phil. 71 (2008).
48 Id. at 77-79, citing *Young v. Sy*, supra note 45, at 264-267; *Guaranteed Hotels, Inc. v. Baltao*, 489 Phil. 702, 709 (2005); and *Candido v. Camacho*, 424 Phil. 291 (2002).

> **that any judgment rendered in the pending case, regardless of which party is successful would amount to *res judicata***.
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> Ineluctably, the petitioner, by filing an ordinary appeal and a petition for *certiorari* with the CA, engaged in forum shopping. When the petitioner commenced the appeal, only four months had elapsed prior to her filing with the CA the Petition for *Certiorari* under Rule 65 and which eventually came up to this Court by way of the instant Petition (re: Non-Suit). The elements of *litis pendentia* are present between the two suits. As the CA, through its Thirteenth Division, correctly noted, both suits are founded on exactly the same facts and refer to the same subject matter–the RTC Orders which dismissed Civil Case No. SP-5703 (2000) for failure to prosecute. In both cases, the petitioner is seeking the reversal of the RTC orders. The parties, the rights asserted, the issues professed, and the reliefs prayed for, are all the same. It is evident that the judgment of one forum may amount to *res judicata* in the other.
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> **The remedies of appeal and *certiorari* under Rule 65 are mutually exclusive and not alternative or cumulative**. This is a firm judicial policy. The petitioner cannot hedge her case by wagering two or more appeals, and, in the event that the ordinary appeal lags significantly behind the others, she cannot *post facto* validate this circumstance as a demonstration that the ordinary appeal had not been speedy or adequate enough, in order to justify the recourse to Rule 65. This practice, if adopted, would sanction the filing of multiple suits in multiple *fora*, where each one, as the petitioner couches it, becomes a "precautionary measure" for the rest, thereby increasing the chances of a favorable decision. This is the very evil that the proscription on forum shopping seeks to put right. In *Guaranteed Hotels, Inc. v. Baltao*, the Court stated that **the grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions**. Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different *fora* until a favorable result is reached. To avoid the resultant confusion, the Court adheres strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of the case.
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> Thus, the CA correctly dismissed the petition for *certiorari* and the petition for review (G.R. No. 157745) filed with this Court must be denied for lack of merit.

We also made the same ruling in *Candido v. Camacho*, when the respondent therein **assailed identical court orders through both an appeal and a petition for an extraordinary writ**.

> Here, petitioners questioned the June 26, 2000 Order, the August 21, 2000 Clarificatory Order, and the November 23, 2000 Omnibus Order of the RTC via ordinary appeal (CA-G.R. CV No. 69892) and through a petition for *certiorari* (CA-G.R. SP No. 62915) in different divisions of the same court. The actions were filed with a month's interval from each one. Certainly, petitioners **were seeking to obtain the same relief in two different divisions with the end in view of endorsing whichever proceeding would yield favorable consequences**. **Thus, following settled jurisprudence, both the appeal and the *certiorari* petitions should be dismissed**. (Emphases supplied; citations omitted)

Similar thereto, the very evil that the prohibition on forum-shopping was seeking to prevent – conflicting decisions rendered by two (2) different tribunals – resulted from De Guzman's abuse of the processes. Since De

Guzman's appeal before the PPC Board was denied in its Resolutions[49] dated May 25, 2006 and June 29, 2006, De Guzman sought the review of said resolutions before the CSC where he raised yet again the defense of *res judicata*. Nonetheless, the CSC, in its Resolution No. 080815[50] dated May 6, 2008, affirmed De Guzman's dismissal, affirming "the Resolutions of the PPC Board of Directors dismissing De Guzman from the service for Dishonesty, Gross Violation of Regulations, and Conduct Grossly Prejudicial to the Best Interest of the Service."[51]

De Guzman's motion for reconsideration of the aforesaid Resolution was similarly denied by the CSC in its Resolution No. 090077[52] dated January 14, 2009. On the other hand, the petition for *certiorari*, which contained De Guzman's prayer for the reversal of Resolutions dated November 23, 2004 and January 6, 2005 dismissing him from the service, was granted by the CA much earlier on April 4, 2006.

It should be pointed out that De Guzman was bound by his certification[53] with the CA that if he "should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency," he "undertake[s] to report that fact within five (5) days therefrom to [the] Honorable Court."[54] Nothing, however, appears on record that De Guzman had informed the CA of his subsequent filing of a notice of appeal before the PPC from the Resolution dated May 10, 2005. By failing to do so, De Guzman committed a violation of his certification against forum-shopping with the CA, which has been held to be a ground for dismissal of an action distinct from forum-shopping itself.[55]

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49 *Rollo*, pp. 142-144 and 145-146, respectively.

50 Id. at 326-332.

51 Id. at 332.

52 Id. at 333-340.

53 Id. at 137.

54 A certification against forum shopping is a requirement provided under Section 5, Rule 7 of the Rules of Court which reads as follows:

> Sec. 5. *Certification against forum shopping*. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.
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> Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions

55 See Section 5, Rule 7 of the Rules of Court , id.; see also *Collantes v. CA*, 546 Phil. 391, 402-403 (2007).

Moreover, De Guzman's contention[56] that the filing of the notice of appeal from the said Resolution was only "taken as a matter of precaution"[57] cannot extricate him from the effects of forum-shopping. He was fully aware when he filed CA-G.R. SP No. 88891 that PG Rama had forwarded the records of the case to the PPC Board for purposes of appeal.[58] Yet, he decided to bypass the administrative machinery. And this was not the first time he did so. In his Comment to the instant petition, De Guzman claimed[59] that in response to the Memorandum[60] dated August 17, 1999 issued by Dir. Lalanto implementing his dismissal from service, he not only filed a motion for reconsideration but he likewise challenged the actions of the PPC before the Regional Trial Court of Manila through a petition for mandamus docketed as Case No. 99-95442.

Even when CA-G.R. SP No. 88891 was decided in De Guzman's favor on April 4, 2006, and PPC's motion for reconsideration was denied on July 19, 2006, De Guzman nonetheless filed on July 26, 2006 an appeal before the CSC from the denial by the PPC Board of his Notice of Appeal dated June 7, 2005 as pointed out in CSC Resolution No. 090077.[61] While De Guzman did inform the CSC that he previously filed a petition for *certiorari* with the CA, he **failed to disclose the fact that the CA had already rendered a decision thereon resolving the issue of *res judicata,*[62] which was the very same issue before the CSC**.

Verily, unscrupulous party litigants who, taking advantage of a variety of competent tribunals, repeatedly try their luck in several different *fora* until a favorable result is reached[63] cannot be allowed to profit from their wrongdoing. The Court emphasizes strict adherence to the rules against forum-shopping, and this case is no exception. Based on the foregoing, the CA should have then dismissed the petition for *certiorari* filed by De Guzman not only for being violative of the rule on exhaustion of administrative remedies but also due to forum-shopping.

In addition, it may not be amiss to state that De Guzman's petition for *certiorari* was equally dismissible **since one of the requirements for the availment thereof is precisely that there should be no appeal**. It is well-settled that the remedy to obtain reversal or modification of the judgment on the merits is to appeal. This is true even if the error, or one of the errors, ascribed to the tribunal rendering the judgment is its lack of jurisdiction over

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56 *Rollo*, p. 192.
57 Id.
58 Id. at 117.
59 Id. at 170-171.
60 As stated in De Guzman's Letter dated August 18, 1999 to Postmaster General Nicasio P. Rodriguez; id. at 78-79.
61 Id. at 337.
62 Id. at 338.
63 *Sps. Zosa v. Judge Estrella*, supra note 47, at 79, citing *Young v. Sy*, supra note 45, at 266-267, further citing *Guaranteed Hotels, Inc. v. Baltao*, 489 Phil. 702, 709 (2005).

the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision.[64] In fact, under Section 30, Rule III (C) of the Disciplinary Rules and Procedures of the PPC, among the grounds for appeal to the PPC Board from an order or decision of dismissal are: (*a*) grave abuse of discretion on the part of the Postmaster General; and (*b*) errors in the finding of facts or conclusions of law which, if not corrected, would cause grave and irreparable damage or injury to the appellant. Clearly, therefore, with the remedy of appeal to the PPC Board and thereafter to the CSC available to De Guzman, *certiorari* to the CA should not have been permitted.

In this relation, it bears noting that PPC has sufficiently addressed De Guzman's argument that an appeal would not be a speedy and adequate remedy considering that the resolution dismissing him from service was to be "implemented immediately."[65]

To elucidate, on February 24, 2005, before De Guzman filed the petition for *certiorari* dated March 12, 2005, the PPC Board had passed Board Resolution [66] No. 2005-14 adopting a "Corporate Policy that henceforth the decision of the Postmaster General in administrative cases when the penalty is removal or dismissal, the same **shall not be final and executory** pending appeal to the Office of the Board of Directors." Shortly thereafter, or on March 8, 2005, PG Rama issued Philpost Administrative Order[67] No. 05-05 pursuant to the aforementioned Board Resolution, the pertinent portions of which are quoted hereunder:

> 1. Decisions of the Postmaster General in administrative cases where the penalty imposed is removal/dismissal from the service shall not be final and executory pending appeal to the Office of the PPC Board of Directors. x x x
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> 2. Decisions of the Postmaster General in administrative cases where the penalty imposed is removal/dismissal from the service shall be executory pending appeal to the Civil Service Commission;
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> 3. Respondents who have pending appealed administrative cases to the PPC Board of Directors are entitled to report back to office and receive their respective salary and benefits beginning at the time they reported back to work. No back wages shall be allowed by virtue of the PPC Board Resolution No. 2005-14;
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> 4. Following the Civil Service Rules and Regulations, back wages can only be recovered in case the respondent is exonerated of the administrative charges on appeal; and
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> 5. PPC Board Resolution No. 2005-14 took effect on 24 February 2005. x x x

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64 *Manacop v. Equitable PCI Bank*, G.R. Nos. 162814-17, August 25, 2005, 468 SCRA 256, 271.
65 *Rollo*, p. 101. See dispositive portion of Resolution dated November 23, 2004.
66 Id. at 147-149.
67 Id. at 151.

PPC further claimed that instead of reporting for work while his motion for reconsideration and, subsequently, his appeal were pending, "[De Guzman] voluntarily elected to absent himself." Much later, however, De Guzman "finally reported back [to] work and thereby received his salary and benefits in full for the covered period."[68] De Guzman failed to sufficiently rebut these claims, except to say that he was never given any copy of the aforementioned board resolution and administrative order.[69] Therefore, considering that his dismissal was not to be executed by PPC immediately (if he had appealed the same), De Guzman's contention that an appeal would not be a speedy and adequate remedy similarly deserves no merit.

C. Res judicata.

De Guzman likewise failed to convince the Court of the applicability of the doctrine of *res judicata* for having been charged of the same set of acts for which he had been exculpated by the ISLES of the DOTC whose recommendation for the dismissal of the complaint against De Guzman was subsequently approved by then DOTC Asec. Jardiniano.

The Court agrees with PPC's argument that there was **no formal charge** filed by the DOTC against De Guzman and, as such, the dismissal of the complaint against him by Asec. Jardiniano, upon the recommendation of the ISLES, did not amount to a dismissal on the merits that would bar the filing of another case.

While the CA correctly pointed out that it was the DOTC, through its Department Head, that had disciplinary jurisdiction over employees of the then Bureau of Posts, including De Guzman, it however proceeded upon the presumption that De Guzman had been formally charged. But he was not.

Pertinent is Section 16 of the Uniform Rules on Administrative Cases in the Civil Service which reads as follows:

> Section 16. Formal Charge. – **After a finding of a *prima facie* case, the disciplining authority shall formally charge the person complained of**. The formal charge shall contain a specification of charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by a counsel of his choice. (Emphasis supplied)

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[68] Id. at 30.
[69] Id. at 187-188.

The requisite finding of a *prima facie* case before the disciplining authority shall formally charge the person complained of is reiterated in Section 9, Rule III (B) of the Disciplinary Rules and Procedures of the PPC, to wit:

> Section 9. FORMAL CHARGE. – **When the Postmaster General finds the existence of a *prima facie* case, the respondent shall be formally charged**. He shall be furnished copies of the complaint, sworn statements and other documents submitted by the complainant, unless he had already received the same during the preliminary investigation. The respondent shall be given at least seventy-two (72) hours from receipt of said formal charge to submit his answer under oath, together with the affidavits of his witnesses and other evidences, and a statement indicating whether or not he elects a formal investigation. He shall also be informed of his right to the assistance of a counsel of his choice. If the respondent already submitted his comment and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence. (Emphasis supplied)

The investigation conducted by the ISLES, which "provides, performs, and coordinates security, intelligence, **fact-finding**, **and investigatory functions** for the Secretary, the Department, and Department-wide official undertakings,"[70] was intended precisely for the purpose of determining whether or not a *prima facie* case against De Guzman existed. Due to insufficiency of evidence, however, no formal charge was filed against De Guzman and the complaint against him was dismissed by Asst. Secretary Jardiniano.

In order that *res judicata* may bar the institution of a subsequent action, the following requisites must concur: (*a*) the former judgment must be final; (*b*) it must have been rendered by a court having jurisdiction over the subject matter and the parties; (*c*) **it must be a judgment on the merits**; and (*d*) there must be between the first and the second actions (i) identity of parties, (ii) identity of subject matter, and (iii) identity of cause of action.[71]

A judgment may be considered as one rendered on the merits when it determines the rights and liabilities of the parties based on the disclosed facts, irrespective of formal, technical or dilatory objections; or when the judgment is rendered after a determination of which party is right, as distinguished from a judgment rendered upon some preliminary or formal or merely technical point.[72]

In this case, there was no "judgment on the merits" in contemplation of the above-stated definition. The dismissal of the

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70 <http://www.dotc.gov.ph/index.php?option=com_k2&view=item&id=118:dotc-proper> (visited November 6, 2013).

71 See *Encinas v. Agustin, Jr.*, G.R. No. 187317, April 11, 2013, 696 SCRA 240, 260.

72 Id.

complaint against De Guzman in the Memorandum[73] dated May 15, 1990 of Asec. Jardiniano was **a result of a fact-finding investigation only for purposes of determining whether a *prima facie* case exists and a formal charge for administrative offenses should be filed**. This being the case, no rights and liabilities of the parties were determined therein with finality. In fact, the CA, conceding that the ISLES was "a mere fact-finding body," pointed out that the Memorandum[74] dated February 26, 1990 issued by Dir. Reyes recommending the dismissal of the complaint against De Guzman "did not make any adjudication regarding the rights of the parties."[75]

Hence, for the reasons above-discussed, the Court holds that PPC did not gravely abuse its discretion when it revived the case against De Guzman despite the previous dismissal thereof by Asec. Jardiniano. Since said dismissal was not a judgment on the merits, the doctrine of *res judicata* does not apply.

In fine, due to the errors of the CA as herein detailed, the Court hereby grants the present petition and accordingly reverses and sets aside the former's dispositions. The Resolutions dated November 23, 2004 and January 6, 2005 of the PPC ordering De Guzman's dismissal from the service are thus reinstated.

WHEREFORE, the petition is **GRANTED**. The Decision dated April 4, 2006 and the Resolution dated July 19, 2006 of the Court of Appeals in CA-G.R. SP No. 88891 are **REVERSED** and **SET ASIDE**, and the Resolutions dated November 23, 2004 and January 6, 2005 of petitioner Philippine Postal Corporation are hereby **REINSTATED**.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

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73 *Rollo*, p. 72.
74 Id. at 70-71.
75 See CA Decision dated April 4, 2006; id. at 53.

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
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, Second Division

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