Republic of the Philippines
Supreme Court
Manila

EN BANC

DAVAO CITY WATER DISTRICT REPRESENTED BY ITS GENERAL MANAGER, RODORA N. GAMBOA,	**G.R. No. 194192**
Petitioner,	Present:
	SERENO, *C. J.*,
	CARPIO,
	VELASCO, JR.,
	LEONARDO-DE CASTRO,
	BRION,
	PERALTA,*
	BERSAMIN,
-versus-	DEL CASTILLO,
	VILLARAMA, JR.,
	PEREZ,
	MENDOZA,
	REYES,
	PERLAS-BERNABE,
	LEONEN,** and
	JARDELEZA, *JJ.*
RODRIGO L. ARANJUEZ, GREGORIO S. CAGULA, CELESTINO A. BONDOC, DANILO L. BUHAY, PEDRO E. ALCALA, JOSEPH A. VALDEZ, TITO V. SABANGAN, MARCELINO B. ANINO, JUANITO C. PANSACALA, JOEMARIE B. ALBA, ANTERO M. YMAS, ROLANDO L. LARGO, RENEBOY U. ESTEBAN, MANUEL B. LIBANG, ROMEORICO A. LLANOS, ARTHUR C. BACHILLER, SOCRATES V. CORCUERA, ALEJANDRO C. PICHON, GRACIANO A. MONCADA,	

ROLANDO K. ESCORIAL, NOEL A. DAGALE, EMILIO S. MOLINA, SHERWIN S. SOLAMO, FULGENCIO I. DYGUAZO, GUALBERTO S. PAGATPAT, JOSEPH B. ARTAJO, FELIXBERTO Q. OBENZA, FLORANTE A. FERRAREN, ELSA A. ELORDE, CARLOS P. MORRE, JAMES AQUILINO M. COLOMA, JOAQUIN O. CADORNA, JR., LORNA M. MAXINO, ROMULO A. REYES, NOEL G. LEGASPI, ELEANOR R. LAMOSTE, WELMER E. CRASCO, DELIO T. OLAER, VICENTE R. MASUCOL, IRENEO A. CUBAL, EDWIN A. DELA PEÑA, JIMMY A. TROCIO, WILFREDO L. TORREON, ALEJANDRITO M. ALO, RAUL S. SAGA, JOSELITO P. RICONALLA, TRISEBAL Q. AGUILAR, ARMAN N. LORENZO, SR. and PEDRO C. GUNTING,

Respondents.

Promulgated:

June 16, 2015

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RESOLUTION

PEREZ, *J.*:

This is a Petition for Review on *Certiorari*[1] of the Decision[2] of the Twenty Third Division of the Court of Appeals in CA-G.R. SP No. 02793-

* On Official Leave on 16 June 2015.

** On Official Leave on 16 June 2015.

1 Rule on Civil Procedure, Rule 45.

2 Penned by Associate Justice Rodrigo F. Lim, Jr. with Associate Justices Angelita A. Gacutan and Nina G. Antonio-Valenzuela, concurring; CA *rollo*, pp. 774-791.

MIN dated 7 October 2010, affirming the 14 January 2009 Resolution No. 09-0047 rendered by the Civil Service Commission (CSC).

The Facts

Petitioner Davao City Water District (DCWD) is a government-owned and controlled corporation in Davao City represented by its General Manager Engr. Rodora N. Gamboa (GM Gamboa).

The private respondents, namely, Rodrigo L. Aranjuez, Gregorio S. Cagula, Celestino A. Bondoc, Danilo L. Buhay, Pedro E. Alcala, Joseph A. Valdez, Tito V. Sabangan, Marcelino B. Anino, Juanito C. Pansacala, Joemarie B. Alba, Antero M. Ymas, Rolando L. Largo, Reneboy U. Esteban, Manuel B. Libang, Romeorico A. Llanos, Arthur C. Bachiller, Socrates V. Corcuera, Alejandro C. Pichon, Graciano A . Moncada, Rolando K. Escorial, Noel A. Dagale, Emilio S. Molina, Sherwin S. Solamo, Fulgencio I. Dyguazo, Gualberto S. Pagatpat, Joseph B. Artajo, Felixberto Q. Obenza, Florante A. Ferraren, Elsa A. Elorde, Carlos P. Morre, James Aquilino M. Coloma, Joaquin O. Cadorna, Jr., Lorna M. Maxino, Romulo A. Reyes, Noel G. Legaspi, Eleanor R. Lamoste, Welmer E. Crasco, Delio T. Olaer, Vicente R. Masucol, Ireneo A. Cubal, Edwin A. dela Peña, Jimmy A. Trocio, Wilfredo L. Torreon, Alejandrito M. Alo, Raul S. Saga, Joselito P. Riconalla, Trisebal Q. Aguilar, Arman N. Lorenzo, Sr. and Pedro C. Gunting (Aranjuez, *et al.*) are officers and members of *Nagkahiusang Mamumuo sa* Davao City Water District (NAMADACWAD). They were charged with several administrative cases due to acts committed during the anniversary celebration of DCWD such as wearing of t-shirts with inscriptions and posting of bond papers outside the designated places. The inscriptions and postings bore employees' grievances.

The records show that as early as 16 May 2007, the members and officers of NAMADACWAD have been staging pickets in front of the DCWD Office during their lunch breaks to air their grievances about the non-payment of their Collective Negotiation Agreement (CNA) incentives and their opposition to DCWD's privatization and proposed One Hundred Million Peso Loan.

On 31 October 2007, GM Gamboa issued an Office Memorandum addressed to all department managers concerning the different activities that would take place during DCWD's then upcoming anniversary celebration. The Memorandum reads:

> Please be informed that the opening activities of our 34th anniversary this coming 09 November 2007 are the motorcade and the fun run. The assembly area will be at the Victoria Plaza Mall parking, in front of Cynthia's Lechon Hauz, 6:00 o'clock in the morning.
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> In view of this, everybody is expected to be there except only those who are assigned as a skeletal force. All carpool vehicles are also enjoined to proceed at the said area. The participants are free to wear any sports attire. Further, you are advised to sign in the attendance sheet provided by the HRD.[3]

On 8 November 2007, the officers and members of NAMADACWAD held an Emergency General Assembly and they agreed to wear NAMADACWAD t-shirts with inscriptions stating, "CNA Incentive *Ihatag Na, Dir. Braganza Pahawa Na!*" on the day of the anniversary.[4]

Came the anniversary, officers and members sported t-shirts with inscriptions "CNA Incentive *Ihatag Na, Dir. Braganza Pahawa Na!*" at the beginning of the Fun Run at Victoria Plaza at around 6:30 in the morning and continued to wear the same inside the premises of the DCWD office during the office hours. Also, one of the members of the Board of Directors of NAMADACWAD Gregorio S. Cagula (Cagula), with the help of some of its members, attached similar inscriptions and posters of employees' grievances to a post in the motor pool area, an area not among the officially designated places[5] for posting of grievances as prescribed by DCWD's Office Memorandum[6] dated 8 February 1996 and pursuant to CSC Memorandum Circular No. 33,[7] Series of 1994 (MC No. 33).[8]

As a consequence of their actions, GM Gamboa sent a Memorandum dated 14 November 2007 addressed to the officers and members of NAMADACWAD, requiring them to explain the reasons for the attire they wore during the anniversary celebration. Through a collective letter dated 19 November 2007, the officers and members explained that the Memorandum only required the employees to wear any sports attire, though theirs were with additional inscriptions containing grievances. They

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3 CA *rollo*, p. 118.

4 Id. at 119.

5 The designated places pursuant to Office Memorandum dated February 8, 1996 are: (1) The bulletin board at the motor pool area below the Office of the Purchasing Division and (2) the side of the office building beside the guardhouse where the bundy clock is located; id. at 29, 782.

6 Id.

7 *Rules to Govern Posting and Hanging Posters, Placards, Streamers and Other Similar Materials*; id. at 29-30.

8 Id. at 170.

countered that the inscriptions were but manifestations of their constitutional rights of free speech and freedom of expression.[9]

On 23 November 2007, another Memorandum was sent to the officers of NAMADACWAD requiring them to explain within 72-hours why they should not be held liable for the actions committed by Cagula.[10]

Finding *prima facie* case against them, GM Gamboa filed formal charges against the officers and members of NAMADACWAD as follow:

1. For DCWD Administrative Case No. 34-2007 against the officials of NAMADACWAD for violation of Existing Civil Service Law and Rules of Serious Nature defined under Section 46 [12], Book V of Executive Order No. 292,[11] in relation to Rule IV, Section 52 B [4] of the Civil Service Resolution No. 991936[12] dated August 31, 1999 and Civil Service Resolution No. 021316[13] dated October 11, 2002 and MC No. 33 dated October 21, 1994.[14]

2. For DCWD Administrative Case Nos. 11-2007 to 33-2007 and 35-2007 to 44-2007 involving the individual members of NAMADACWAD for violation of Existing Civil Service Law and Rules of Serious Nature defined under Section 46 [12], Book V of Executive Order No. 292,[15] in relation to Rule IV, Section 52 B [4] of the Civil Service Resolution No. 991936 dated August 31, 1999 and Civil Service Resolution No. 021316 dated October 11, 2002.

After giving those concerned the opportunity to explain through several hearings and submission of additional evidence, the Hearing Committee, through the authority given by DCWD to hear the administrative charges, filed on 14 March 2008 its Consolidated Resolution and Recommendation finding the officers and members of the NAMADACWAD guilty as charged with penalties ranging from suspension

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9 Letter Explanation to the Memorandum; id. at 120.

10 Id. at 160.

11 **Section 46.** Discipline: General Provisions.—(a) No officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process.
(b) The following shall be grounds for disciplinary action:
(12) Violation of existing Civil Service Law and rules or reasonable office regulations;

12 B. The following are *less grave offenses* with the corresponding penalties:
4. Violation of existing Civil Service Law and rules of serious nature
1st offense — Suspension from 1 mo. 1 day to 6 mos.
2nd offense — Dismissal

13 Omnibus Rules on Prohibited Concerted Mass Actions in the Public Sector.

14 CA *rollo*, pp. 144-145.

15 Book V/Title I/Subtitle A/Chapter 7-Discipline.

to dismissal from service with all accessory penalties under the CSC Law and Rules.[16]

On 19 March 2008, GM Gamboa issued several Orders[17] adopting the recommendation submitted by the Hearing Committee but modifying some of the corresponding penalties in view of mitigating circumstances such as *first infraction* and *substantial justice*. However, three officials namely Rodrigo L. Aranjuez, Cagula and Celestino A. Bondoc were penalized with dismissal from the service for the reason that the infraction was the second administrative offense of serious nature.[18]

Aggrieved, Aranjuez, *et al*., filed an Urgent Motion for Reconsideration[19] with Prayer to Suspend the Immediate Execution of the Orders dated 19 March 2008. The Motion for Reconsideration was thereafter submitted for resolution after the Hearing Committee waived the filing of a Comment. On 17 April 2008, the Motion was denied by DCWD.

On 2 May 2008, Aranjuez, *et al*., filed an appeal before the CSC bringing up, among other issues, the violation of their constitutional rights to assemble and petition for redress of grievances.[20]

In its Comment, DCWD defended the Orders on the basis of Section 6 of CSC Resolution No. 021316[21] which provides that the concerted activity like the participation of the officers and employees during the fun run wearing t-shirts with inscriptions was prohibited because it was done during office hours. Moreover, the act of Cagula in posting papers with grievances outside the designated areas was a clear violation of MC No. 33 in relation to 8 February 1996 Office Memorandum. It was submitted that due to Cagula's membership in the Board of Directors of NAMADACWAD, the other officers were solidarily responsible for his actions.[22]

CSC Resolution

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16 CA *rollo*, pp. 144-180.

17 Id. at 181-207.

18 Id. at 204.

19 Id. at 212-217.

20 Id. at 63-114.

21 **Section 6. *Permissible Concerted Mass Action***. – A concerted activity or mass action done outside of government office hours shall not be deemed a prohibited concerted activity or mass action within the contemplation of this omnibus rules provided the same shall not occasion or result in the disruption of work or service.

22 CA *rollo*, pp. 363-394.

On 14 January 2009, CSC issued a Resolution[23] partly granting the consolidated appeal and held that the collective act of respondents in wearing t-shirts with grievance inscriptions during office hours was not within the ambit of the definition of prohibited mass action punishable under CSC Resolution 021316 since there was no intent to cause work stoppage. However, though not prohibited under the Resolution, the act was considered as an offense punishable under "Violation of Reasonable Office Rules and Regulations." CSC further ruled that Cagula's act of posting of grievances outside the designated areas was a clear violation of MC No. 33. By reason of Cagula's position, the other officers of NAMADACWAD were considered as having agreed and conspired to commit the said act and as such are as liable as Cagula.

On the other hand, and contrary to the assertions of DCWD, the violations committed by the private respondents are not serious in nature due to the lack of any abusive, vulgar, defamatory or libelous language. The dispositive portion reads:

> WHEREFORE, the Consolidated Appeal filed by Rodrigo L. Aranjuez, et al. is PARTLY GRANTED. The Orders dated March 19, 2008 issued by the General Manager Rodora N. Gamboa finding appellants guilty of Violation of Existing Civil Service Law and Rules of Serious Nature (Section 46 [12] Book V of Executive Order No. 292, in relation to Rule IV, Section 52 B [4] of the CSC Resolution No. 991936 dated August 31, 1999 and CSC Resolution No. 021316 dated October 11, 2002 and CSC MC No. 33 dated October 21, 1994), are hereby MODIFIED. Accordingly, appellants are hereby found liable for Violation of Reasonable Office Rules and Regulations and are meted the following penalties, to wit:
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> 1. As to members Danilo Buhay, Pedro E. Alcala, Joseph A. Valdez, Tito V. Sabangan, Marcelino B. Anino, Juanito C. Pansacala, Joemarie B. Alba, Antero M. Ymas, Rolando L. Largo, Reneboy U. Esteban, Manuel B. Libang, Romeorico A. Llanos, Arthur C. Bachiller, Socrates V. Corcuera, Alejandro C. Pichon, Graciano A. Moncada, Rolando Escorial, Noel A. Dagale, Emilio S. Molina, Sherwin S. Solano, Danilo L. Buhay and Fulgencio I. Dyguazo, the penalty of reprimand;
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> 2. As to officers Gualberta S. Pagatpat, Joseph A. Artalo, Felixberto Q. Obenza, Florante A. Ferraren, Elsa A. Ilorde, Carlos P. Morre, James Aquilino M. Coloma, Joacquin O. Cadorna, Jr., Lorna M. Maximo, Romulo A. Reyes, Noel G. Legazpi, Eleanor R. Lamoste, Welmer E. Crasco, Delio T. Olaer, Vicente R. Masucol, Ireneo Cubal, Rodrigo L. Aranjuez, Gregorio S. Cagula and Celestino A.

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[23] Id. at 464-482.

> Bondoc, the penalty of reprimand and strong warning that a repetition of the same shall be dealt with severely.
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> 3. As to members Edwin A. dela Peña, Jummy A. Trocio, Wilfredo A. Torreon, Alejandrito M. Alo, Raul S. Saga, Joselito P. Riconalla, Trisebal Q. Aguilar, Arman L. Lorenzo, Sr. and Pedro C. Gunting, they are likewise found guilty of the offense of Violation of Reasonable Office Rules and Regulations but are not meted a penalty considering that they are casual employees whose renewal of appointments were held in abeyance.[24]

Aggrieved, DCWD filed a Petition for Review under Rules 43 before the Court of Appeals alleging procedural and substantive infirmities of the CSC Resolution.

The Court of Appeals' Decision

In its decision, the Court of Appeals affirmed *in toto*[25] the resolution of CSC.

The appellate court disagreed with the contention of DCWD that there was a violation of any provision of Resolution No. 021316 in this wise:

> As correctly observed by the *Civil Service Commission*, the act of respondents in sporting a t-shirt with the inscription "CNA INCENTIVE IHATAG NA, DIRECTOR BRAGANZA, PAHAWA NA!" during the fun run and even inside the office premises hardly qualifies as a prohibited concerted mass action under *CSC Resolution No. 021316.*
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> x x x x
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> To say the least, Section 5 of Resolution No. 01316 provides a specific guideline as to what constitutes a prohibited concerted activity. A prohibited concerted activity must be one undertaken by government employees, by themselves or through their association, with the ***intent*** of effecting work stoppage or service disruption, in order to realize their demands or force concessions. In the case at hand, we can readily observe that respondent's participation in the fun run, as well as their behavior inside the premises of DCWD office during the regular working hours of that day indicate a complete absence of any intention on their part to effect a work stoppage or disturbance. In fact, as attested by both parties, all the

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24 Id. at 481-482.

25 **WHEREFORE**, premises considered, the Appeal is hereby **DENIED**, and the January 14, 2009 Resolution No. 09-0047 rendered by the Civil Service Commission is hereby **AFFIRMED** *in toto;* id. at 790.

> respondents participated with the planned activities and festivities on that day.[26]

The appellate court was likewise in agreement with the CSC which considered as simple violation of office rules the posting of banners outside the designated posting areas by Cagula. Also like the CSC, it ruled that such offense is not punishable with the penalty of dismissal.

The DCWD is now before us still with its basic arguments, though rephrased:

I.

The *court a quo* failed to rule on the issue whether or not the respondents' Consolidated Appeal filed before the CSC was sufficient in form and substance.

II.

The *court a quo* erred in ruling that the concerted mass action on November 9, 2007 was not prohibited under Resolution No. 021316.

III.

The *court a quo* erred in ruling that Resolution No. 021316 and MC No. 33 are considered "reasonable office rules and regulations" within the purview of Section 52 C [3] of the Uniform Rules on Administrative Cases.

IV.

The *court a quo* erred in ruling that respondents' act of posting white bond papers with union-related inscriptions on their t-shirts while inside the office premises does not constitute serious violation of Civil Service Rules but only a violation of Reasonable Office Rules and Regulations, despite the fact that the said Memorandum Circular No. 33 is a CSC-issued Memorandum and not DCWD-issued Rules.

V.

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[26] Id. at 785-786.

The *court a quo* erred in ruling that MC No. 33 was not violated by respondent Gregorio S. Cagula and the rest of the officials of NAMADACWAD who were charged in DCWD Administrative case No. 34-2007.

VI.

The *court a quo* erred in not taking into consideration that respondents Aranjuez, Cagula and Bondoc were second-time offenders who were previously charged and penalized for violation of MC No. 33, thereby justifying their dismissal from the service.

VII.

The *court a quo* erred when it failed to rule on the issue of whether the decisions of a government agency, acting as Disciplining Authority, in disciplinary cases are immediately executory upon receipt thereof.

The Court's Ruling

The Court finds no merit in the petition.

Prefatorily, DCWD contends that the appeal of Aranjuez, *et al*., should have been dismissed by the CSC for non-compliance with Section 46 of CSC Resolution No. 991936, particularly their failure to file a notice of appeal, their failure to show proof of payment of the appeal fee and the petition's invalid verification and certification of non-forum shopping.

We are not persuaded.

Though the appeal before the CSC lacked a notice of appeal as required by CSC Resolution No. 991936 or the Uniform Rules on Administrative Cases in the Civil Service (URACCS),[27] the Consolidated

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[27] **Section 46**. *Perfection of an Appeal*. — To perfect an appeal, the appellant shall within fifteen (15) days from receipt of the decision submit the following:

a. Notice of appeal which shall specifically state the date of the decision appealed from and the date of receipt thereof;

Memorandum filed by the private respondents was enough to be considered as a sufficient compliance with the rules. The Memorandum delineates the errors asserted against DCWD and the discussions supporting their arguments. We find merit in the sufficiency of the Memorandum rather than strict compliance in view of the constitutional right of every employee to security of tenure. A more relevant consideration of public interest is accorded whenever the merits of a case collide with rigid application of the rules.[28]

Further, we find that the Civil Service Commission, the agency directly concerned, the ruling of which was upheld by the Court of Appeals on review, correctly exercised jurisdiction over respondent's appeal from the decision of petitioner DCWD, thereby ruling against, if *sub silentio*, the argument of petitioner that the appeal should be dismissed for lack of proof of payment of appeal. The Civil Service Commission and the Court of Appeals considered the procedural issue raised by petitioner as a surmountable bar to the resolution of the main issue of respondents' constitutional right to free expression[29] as amplified with specificity by their guaranteed right as workers to peaceful concerted activity and their entitlement to security of tenure.[30] The decisions of the Civil Service Commission and the Court of Appeals are squarely supported by *Adalim v. Taniñas*[31] stating that:

> In a number of cases, we upheld the CSC's decision relaxing its procedural rules to render substantial justice. 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

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b. Three (3) copies of appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence;
c. Proof of service of a copy of the appeal memorandum to the disciplining office;
d. Proof of payment of the appeal fee; and
e. A statement or certificate of non-forum shopping.

Failure to comply with any of the above requirements within the reglementary period shall be construed as failure to perfect an appeal and shall cause its dismissal.

28 *Adalim v. Taniñas*, G.R. No. 198682, 10 April 2013, 695 SCRA 648, 656.

29 CONSTITUTION, Article III Bill of Rights, Section 4. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

30 CONSTITUTION, Article XIII SOCIAL JUSTICE AND HUMAN RIGHTS

Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. It shall guarantee the rights of all workers to self organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making process affecting their rights and benefits as may be provided by law.

31 Supra note 28.

> proceedings. The case before the CSC involves the security of tenure of public employees protected by the Constitution. 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. Accordingly, both the CSC and the CA properly allowed respondent employees' appeal despite procedural lapses to resolve the issue on the merits.

In *Republic of the Philippines v. Court of Appeals*,[32] this Court pronounced that technical rules of procedure are not ends in themselves but primarily devised and designed to help in the proper and expedient dispensation of justice. In appropriate cases, therefore, the rules may have to be so construed liberally as to meet and advance the cause of substantial justice. While it is desirable that the rules of procedure are faithfully and even meticulously observed, courts should not be so strict about procedural lapses that do not really impair the proper administration of justice. If the rules are intended to ensure the orderly conduct of litigation, it is because of the higher objective they seek which is the protection of substantive rights of the parties.[33]

Substantial justice, in other words must prevail. In *Paler*,[34] We said:

> When substantial justice dictates it, procedural rules may be relaxed in order to arrive at a just disposition of a case. The purpose behind limiting the period of appeal is to avoid unreasonable delay in the administration of justice and to put an end to controversies. A one-day delay as in this case, does not justify denial of the appeal where there is absolutely no indication of intent to delay as in this case, does not justify denial of the appeal where there is absolutely no indication of intent to delay justice on the part of Paler and the pleading is meritorious on its face.

We rule in favor of the allowance of respondents' appeal because:

> Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of **even the most mandatory character**, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.[35] (Emphasis supplied)

Quoting again the case of *Republic v. Court of Appeals*,[36] we pointed out that this Court can temper rigid rules in favor of substantial justice. We

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32 343 Phil. 428, 436 (1997).

33 *GSIS v. Court of Appeals*, 334 Phil. 163, 174 (1997), citing *Mauna v. Civil Service Commission*, G.R. No. 97794, 13 May 1994, 232 SCRA 388, 398.

34 *Commission on Appointments v. Paler*, 628 Phil. 26, 36 (2010).

35 *Bank of the Philippine Islands v. Dando*, 614 Phil. 553, 562-563 (2009).

36 Supra.

find that pronouncement apt and fit to this case. Thereby we are not detained by the omissions of the respondents in their resort to the CSC, and we thus proceed to the merits of the petitioners' submissions.

Lastly, on the form, we find no merit in the contention that Aranjuez was not authorized to sign on behalf of the other petitioners. Pursuant to Union Resolution No. 015-2008[37] attached as Annex A to the Appellants' 015-2008 Consolidated Memorandum dated 26 March 2008, the officers and members of NAMDACWAD gave Aranjuez a general authority to represent the organization in all legal matters to be filed for whatever purpose it may serve. From the general and broad grant of authority, Aranjuez possessed the specific authority to sign in behalf of his principal the verification and certification against non-forum shopping required of the petition.

To the kernel, then.

DCWD primarily contends that CSC and the Court of Appeals erred in ruling that the concerted mass action on 9 November 2007 is not prohibited under Resolution No. 021316. We disagree.

DCWD relies on Resolution No. 021316, which states:

> **Section 6**. *Permissible Concerted Mass Action.* – A concerted activity or mass action done outside of government office hours shall not be deemed a prohibited concerted activity or mass action within the contemplation of this omnibus rules provided the same shall not occasion or result in the disruption of work or service.[38]

DCWD argues that since the concerted or mass action was done within government office hours, such act was not permissible, therefore prohibited. Otherwise stated, a concerted activity done within the regular government office hours is automatically a violation of Section 6 of the Resolution.

Notably, however, a prohibited concerted mass action is defined not in Sec. 6 of Resolution No. 021316 but in Sec. 5 thereof. Thus:

> **Section 5**. *Definition of Prohibited Concerted Mass Action.* - As used in this Omnibus Rules, the phrase ''prohibited concerted activity or

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37 CA *rollo*, pp. 115-116.

38 Omnibus Rules on Prohibited Concerted Mass Action in the Public Sector.

> mass action'' shall be understood to refer to any collective activity undertaken by government employees, by themselves or through their employees organizations, **with the intent of effecting work stoppage or service disruption in order to realize their demands of force concession, economic or otherwise, from their respective agencies or the government.** It shall include mass leaves, walkouts, pickets and acts of similar nature.[39] (Emphasis ours).

The operative phrases are "any collective activity" and "work stoppage or service disruption." Without the intent at work stoppage or service disruption, the concerted activity is not prohibited. The time and place of the activity are not determinative of the prohibition. Whether done within government hours, a concerted activity is allowed if it is without any intent at work stoppage.

We cannot isolate the provision of Section 6 of the Resolution from definition of prohibited activity in Section 5 thereof. It is erroneous to interpret the provisions in such a way that an act not within the circumstances as defined under Section 5 can still be regarded as prohibited if done within government hours. To subscribe to the argument of DCWD would in effect expand the definition provided by Resolution No. 021316 on what constitutes a prohibited mass action.

It is clear that the collective activity of joining the fun run in t-shirts with inscriptions on CNA incentives was not to effect work stoppage or disrupt the service. As pointed out by the respondents, they followed the advice of GM Gamboa "to be there" at the fun run. Respondents joined, and did not disrupt the fun run. They were in sports attire that they were allowed, nay required, to wear. Else, government employees would be deprived of their constitutional right to freedom of expression.[40] This, then, being the fact, we have to rule against the findings of both the CSC and Court of Appeals that the wearing of t-shirts with grievance inscriptions constitutes as a violation of Reasonable Office Rules and Regulations.

First off and as correctly pointed out by the charged officials and members in their 19 November 2007 Reply Letter to DCWD, they did not violate the 31 October 2007 Office Memorandum issued by GM Gamboa relating to the proper attire to be worn during the fun run. The Office Memorandum was clear in its order that the participants are free to wear any sports attire during the event. To reiterate, the t-shirts they wore fall within

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39 Id.

40 Supra note 29.

the description of "any sports attire" that the Memorandum allowed to be worn.

More importantly we need to refer to *GSIS v. Villaviza (GSIS case).*[41] It was there ruled that the acts of GSIS employees wearing similarly colored shirts while attending a public hearing inside the GSIS Office, with clenching of fists and orating against the then President Winston Garcia, were not constitutive of a prohibited activity but were only an exercise of their constitutional freedom of expression.[42] We repeat:

> In this case, CSC found that the acts of respondents in going to the GSIS-IU office wearing red shirts to witness a public hearing do not amount to a concerted activity or mass action proscribed above. CSC even added that their actuations can be deemed an exercise of their constitutional right to freedom of expression. The CA found no cogent reason to deviate therefrom.
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> As defined in Section 5 of CSC Resolution No. 02-1316 which serves to regulate the political rights of those in the government service, the concerted activity or mass action proscribed must be coupled with the "intent of effecting work stoppage or service disruption in order to realize their demands of force concession." Wearing similarly colored shirts, attending a public hearing at the GSIS-IU office, bringing with them recording gadgets, clenching their fists, some even badmouthing the guards and PGM Garcia, are acts not constitutive of an (i) intent to effect work stoppage or service disruption and (ii) for the purpose of realizing their demands or force concession.
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> Precisely, the limitations or qualifications found in Section 5 of CSC Resolution No. 02-1316 are there to temper and focus the application of such prohibition. Not all collective activity or mass undertaking of government employees is prohibited. Otherwise, we would be totally depriving our brothers and sisters in the government service of their constitutional right to freedom of expression.[43]

DCWD also found that Cagula and the rest of the officials violated MC No. 33 in relation to 8 February 1996 Office Memorandum. DCWD also argues that a violation of this circular constitutes as a serious violation of CSC Rules as the circular is a CSC-issued Memorandum and not just a mere issuance of DCWD.

CSC issued MC No. 33 in recognition of the rights of the government employees to air their grievances balanced by the delivery of services to the

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41 640 Phil. 18 (2010).
42 Id. at 29.
43 Id. at 29-30.

public which should not be prejudiced. MC No. 33 sets down rules governing the posting of posters and other similar materials within the premises of government agencies as follows:

> 1. All head of agencies are hereby directed to provide specific spaces within their respective premises, preferably near the bundy clock, at the canteen or places normally frequented by employees, where employees' unions/associations could post their posters.
> 2. x x x.
> 3. The hanging of posters and streamers shall only be allowed in the designated areas.
> 4. No poster, placard, streamer or other similar materials containing abusive, vulgar, defamatory or libelous language shall be allowed.

Pursuant to this mandate, the former General Manager of DCWD issued an office memorandum designating the bulletin board at the motorpool area below the Office of the Purchasing Division and the side of the office building beside the guard house where the bundy clock is located as the designated areas for posting of grievances.[44] Clearly, the DCWD Office Memorandum hews close and faithfully to MC No. 33. It is a reasonable rule issued by the heads of the agencies in order to regulate posting of grievances of the employees.

It is correct to conclude that those who enter government service are subjected to a different degree of limitation on their freedom to speak their mind; however, it is not tantamount to the relinquishment of their constitutional right of expression otherwise enjoyed by citizens just by reason of their employment.[45] Unarguably, a citizen who accepts public employment "must accept certain limitations on his or her freedom." But there are some rights and freedoms so fundamental to liberty that they cannot be bargained away in a contract for public employment. It is the Court's responsibility to ensure that citizens are not deprived of these fundamental rights by virtue of working for the government.[46]

The *GSIS case* pronounced:

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44 CA *rollo*, p. 58.

45 Rene B. Gorospe, *Constitutional Law*, Volume 1, 2006 ed. citing *Keyishian v. Board of Regents of University of State of New York*, 385 US 589, 605-606, 1967.

46 *Borough of Duryea, Pennsylvania v. Guarnieri*, 131 S. Ct. 2488; 180 L. Ed. 2d 408; 2011 U.S. LEXIS 4564; 79 U.S.L.W. 4538; 32 I.E.R. Cas. (BNA) 481; 190 L.R.R.M. 3217; 22 Fla. L. Weekly Fed. S 1176, 20 June 2011 citing *Connick*, 461 U.S. 138, 103 S. Ct. 1684, 75 L. Ed. 2d 708, *Keyishian* v. *Board of Regents of University of State of New York*, 385 U.S. 589, 605-606, 87 S. Ct. 675, 17 L. Ed. 2d 629 (1967) and *Garcetti* v. *Ceballos*, 547 U.S. 410, 418, 126 S. Ct. 1951, 164 L. Ed. 2d 689 (2006).

> Government workers, whatever their ranks, have as much right as any person in the land to voice out their protests against what they believe to be a violation of their rights and interests. Civil Service does not deprive them of their freedom of expression. It would be unfair to hold that by joining the government service, the members thereof have renounced or waived this basic liberty. This freedom can be reasonably regulated only but can never be taken away.[47]

In simple paraphrase we say, regulation of the freedom of expression is not removal of the constitutional right.

Apparently, DCWD, not satisfied by the CSC ruling that a violation of the memorandum is punishable with reprimand, argues that what occurred was a serious violation implying that a higher penalty is warranted.

Under Section 52 (C) (3), Rule IV of Resolution No. 991936,[48] violation of reasonable office rules and regulations is punishable with reprimand on the first offense and suspension ranging from one to thirty days for the second offense.

In *Re: Failure of Various Employees to Register their Time of Arrival and/or Departure from Office in the Chronolog Machine,* the charged court employees were penalized for violation of reasonable office rules and regulations due to their violation of Supreme Court Administrative Circular No. 36-2001 requiring all employees to register their daily attendance, in the Chronolog Time Recorder Machine (CTRM) and in the logbook of their respective offices. Following Resolution No. 991936 that violation of reasonable rules and regulations is a light offense, the Court penalized its erring employees with the penalty of reprimand. [49]

Thus, in line with the civil service rules and jurisprudence, we conclude that a violation of an office memorandum, which was issued as an internal rule to regulate the area for posting of grievances inside the office premise, is only a light offense punishable by reprimand.

Rules and regulations are issued to attain harmony, smooth operation, maximize efficiency and productivity, with the ultimate objective of

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47 *GSIS v. Villaviza*, supra note 41, at 30.

48 Uniform Rules on Administrative Cases in the Civil Service.

49 *In RE: Failure of Various Employees to Register their Time of Arrival and/or Departure From Office in the Chronolog Machine*, 646 Phil. 18 (2010).

realizing the functions of particular offices and agencies of the government.[50]

On the submissions that the decisions of a government agency, acting as Disciplining Authority, are immediately executory upon receipt thereof, we need merely cite Section 37 of the Resolution No. 991936 which clearly provides that:

> **Section 37.** *Finality of Decisions*. — A decision rendered by heads of agencies whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days salary, the same shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no such pleading has been filed.[51]

As distinguished by the law, if the imposed suspension exceeds thirty days or the fine imposed is in an amount over thirty-day salary, the decision will only attain finality after the lapse of the reglementary period in the absence of any motion for reconsideration or appeal. Penalties within the 30-day threshold are immediately executory penalties.

In this case, the members and officials, except the casual employees who were not meted with penalty as the renewal of their employment was held in abeyance, were sanctioned with penalties ranging from suspension of work from one (1) month and one (1) day to dismissal from service.[52] Evidently, the finality and execution of the judgment did not take place after the lapse of the reglementary period because as previously discussed, the members and officials were able to file their consolidated appeal in lieu of notice of appeal.

As clear as the provision on the finality of decisions is Section 42 of Resolution No. 991936 on the effect of motions for reconsideration. Thus:

> **Section 42**. *Effect of Filing*. — The filing of a motion for reconsideration within the reglementary period of fifteen (15) days **shall stay the execution** of the decision sought to be reconsidered.[53] (Emphasis ours)

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50 Id.
51 Uniform Rules on Administrative Cases in the Civil Service.
52 CA *rollo*, pp. 181-208.
53 Uniform Rules on Administrative Cases in the Civil Service.

The first and fundamental duty of the Court is to apply the law. If the law is clear and free from any doubt or ambiguity as the quoted provision, there is no room for construction or interpretation. The letter must be taken to mean exactly what it says and the court has no choice but to see to it that its mandate is obeyed.[54]

The ponente appreciates the concurrence of Justice Marvic M.V.F. Leonen. No need was seen, though, to add to the ruling that the present facts limited.

WHEREFORE, We **DENY** the petition for review on *certiorari*. Nonetheless, the decision of the CSC which was affirmed in *toto* by the CA is **MODIFIED**. The finding of administrative liability of and the penalty of reprimand against the NAMADACWAD members namely Danilo L. Buhay, Pedro E. Alcala, Joseph A. Valdez, Tito V. Sabangan, Marcelino B. Anino, Juanito C. Pansacala, Joemarie B. Alba, Antero M. Ymas, Rolando L. Largo, Reneboy U. Esteban, Manuel B. Libang, Romeorico A. Llanos, Arthur C. Bachiller, Socrates V. Corcuera, Alejandro C. Pichon, Graciano A. Moncada, Rolando K. Escorial, Noel A. Dagale, Emilio S. Molina, Sherwin S. Solamo, and Fulgencio I. Dyguazo are hereby **REVERSED** and **SET ASIDE.**

The finding of liability against the casual employees namely Edwin A. dela Peña, Jummy A. Trocio, Wilfredo L. Torreon, Alejandrito M. Alo, Raul S. Saga, Joselito P. Riconalla, Trisebal Q. Aguilar, Arman N. Lorenzo, Sr. and Pedro C. Gunting is **REVERSED** and **SET ASIDE.**

As to officers Gualberto S. Pagatpat, Joseph B. Artajo, Felixberto Q. Obenza, Florante A. Ferraren, Elsa A. Elorde, Carlos P. Morre, James Aquilino M. Coloma, Joaquin O. Cadorna, Jr., Lorna M. Maxino, Romulo A. Reyes, Noel G. Legaspi, Eleanor R. Lamoste, Welmer E. Crasco, Delio T. Olaer, Vicente R. Masucol, Ireneo Cubal, Rodrigo L. Aranjuez, Gregorio S. Cagula and Celestino A. Bondoc, the penalty of reprimand and strong warning that a repetition of the same shall be dealt with severely is hereby **AFFIRMED.**

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[54] *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 196907, 13 March 2013, 693 SCRA 456, 464, citing *Rizal Commercial Banking Corporation v. Intermediate Appellate Court and BF Homes, Inc*., 378 Phil. 10, 22 (1999).

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

(On Official Leave)
DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

See separate concurring opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice
(On Official Leave)
left my vote

FRANCIS H. JARDELEZA
Associate Justice
please see concurring and dissenting opinion

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution 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