



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**DISCIPLINARY BOARD,
LAND TRANSPORTATION
OFFICE; ATTY. TEOFILO E.
GUADIZ, Chairman; ATTY.
NOREEN BERNADETTE SAN
LUIS-LUTEY; and PUTIWAS
MALAMBUT, Members; ATTY.
MERCY JANE B. PARAS-
LEYNES, Special Prosecutor;
and ATTY. ROBERTO P.
CABRERA III, Assistant
Secretary of the Land
Transportation Office,**

G.R. No. 224395

Present:

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, JJ.

Petitioners,

- versus -

**MERCEDITA E. GUTIERREZ,
Respondent.**

Promulgated:

JUL 03 2017

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated January 7, 2016 and the Resolution³ dated April 26, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 139436, which set aside the Decision dated November 11, 2014 and the Resolution dated January 29, 2015⁴ of the Civil Service Commission (CSC) in NDC-2014-09053 and, accordingly,

¹ *Rollo*, pp. 10-33.

² *Id.* at 36-47. Penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Remedios A. Salazar-Fernando and Socorro B. Inting concurring.

³ *Id.* at 58-59.

⁴ The CSC issuances were not attached to the *rollo*.

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remanded the case to petitioner Land Transportation Office (LTO) for its Disciplinary Board to conduct a preliminary investigation on the alleged offenses of respondent Mercedita E. Gutierrez (Gutierrez).

The Facts

Pursuant to Administrative Order No. AVT-2014-023⁵ implementing the “Do-It-Yourself” Program in the LTO, Gutierrez, Chief of the LTO Registration Section, received a Memorandum⁶ dated February 11, 2014, instructing her to temporarily relocate her Section’s equipment to the Bulwagang R.F. Edu in order to accommodate the renovation of the work stations in the said program. On even date, Gutierrez sent a reply-Memorandum⁷ which, *inter alia*, raised concerns about the safety and integrity of the records kept at her office during the transfer; and at the same time, asked the role of the Registration Section once the aforesaid program kicks off. This prompted the LTO to issue a Memorandum⁸ dated February 20, 2014 directing Gutierrez to show cause why no disciplinary action should be taken against her for non-compliance with the relocation directive (Show Cause Memorandum). In response, Gutierrez sent a letter-reply⁹ dated February 25 2014, maintaining that the Registration Section is ready and willing to comply with the relocation directive and that their equipment is ready for pick-up whenever the LTO may see fit. Further, Gutierrez reiterated the various concerns she raised in her earlier reply-Memorandum.¹⁰

Finding that there is a *prima facie* case against Gutierrez, the LTO issued a Formal Charge¹¹ dated June 2, 2014 charging her of Gross Insubordination, Refusal to Perform Official Duties, and Conduct Prejudicial to the Best Interest of the Service, giving her five (5) days from receipt thereof to file her Answer and supporting affidavits, and preventively suspending her for a period of ninety (90) days.¹² On even date, the LTO issued Office Order No. AVT-2014-89¹³ constituting a Disciplinary Board composed of Atty. Teofilo E. Guadiz, Atty. Noreen Bernadette S. San Luis-Lutey, and Mr. Putiwas M. Malambut, and directing them to conduct a formal investigation in connection with the aforesaid Formal Charge.¹⁴

⁵ Entitled “Revised Rules and Regulations on the Accreditation and Stock Reporting of Manufacturers, Assemblers, Importers, Rebuilders, Dealers, and Other Entities Authorized to Import Motor Vehicles and/or its Components” dated January 23, 2014.

⁶ *Rollo*, p. 60. Signed by OIC-Operations Division Menelia C. Mortel and noted by OIC-Office of the Executive Director Atty. Emiliano T. Bantog, Jr.

⁷ Received by the Office of the Executive Director and LTO Administrative Division on February 12, 2014. *Id.* at 65-67.

⁸ *Id.* at 68. Signed by Assistant Secretary Atty. Alfonso V. Tan, Jr.

⁹ *Id.* at 69-70.

¹⁰ See *id.*

¹¹ *Id.* at 226-227.

¹² See *id.*

¹³ *Id.* at 228.

¹⁴ See *id.*

Consequently, Gutierrez filed her Answer¹⁵ dated June 5, 2014 and a Manifestation¹⁶ dated August 20, 2014, which, *inter alia*, contested the validity of the Formal Charge against her on the ground of lack of due process. According to Gutierrez, she was deprived of procedural due process as the LTO issued the Formal Charge against her without the requisite preliminary investigation.¹⁷

The LTO and CSC Rulings

In two (2) separate Orders¹⁸ both dated August 22, 2014, the LTO found Gutierrez's claim untenable and, accordingly, directed the parties to prepare for the pre-hearing conference.¹⁹ It found that the Show Cause Memorandum already takes the place of a preliminary investigation and, thus, she was not deprived of procedural due process.²⁰ The foregoing was reiterated in the LTO's Order²¹ dated September 4, 2014 where it was held that the Formal Charge against Gutierrez was issued following the issuance of the Show Cause Memorandum, as well as the conduct of a preliminary or fact-finding investigation. On appeal to the CSC, the foregoing LTO Orders were affirmed by the CSC's Decision dated November 11, 2014 and Resolution dated January 29, 2015.²²

Aggrieved, Gutierrez filed a petition for review²³ before the CA.

The CA Ruling

In a Decision²⁴ dated January 7, 2016, the CA set aside the rulings of the LTO and the CSC and, accordingly, directed the LTO to conduct a preliminary investigation on the alleged offenses committed by Gutierrez.²⁵ It held that according to the Formal Charge, the administrative case was instituted against Gutierrez because of her: (a) defiance of a Memorandum²⁶ dated January 28, 2014 regarding the order of construction; (b) non-compliance with the Memorandum dated February 11, 2014 directing the transfer of equipment; and (c) refusal to and preventing the transfer of computers at the Registration Section to the Bulwagang R.F. Edu as per the Report dated February 17, 2014. However, the Show Cause Memorandum only covered Gutierrez's alleged non-compliance with the Memorandum

¹⁵ Id. at 229-236.

¹⁶ Id. at 237-251.

¹⁷ See id. at 230 and 243-251.

¹⁸ Id. at 252-255 and 257-261. Both signed by Chairman Atty. Teofile E. Guadiz III with members Atty. Noreen Bernadette S. San Luis-Lutey and Mr. Putiwas M. Malambut concurring.

¹⁹ See id. at 255 and 260.

²⁰ See id. at 253-255 and 258-260.

²¹ Id. at 94-95.

²² The CSC issuances were not attached to the *rollo*. See id. at 37-38.

²³ Not attached to the *rollo*.

²⁴ *Rollo*, pp. 36-47.

²⁵ See id. at 46.

²⁶ Id. at 205-207.

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dated February 11, 2014. Thus, the CA opined that Gutierrez was not able to explain her side with respect to the two (2) other acts she was accused of committing, thereby constituting a violation of her right to procedural due process.²⁷

Undaunted, the LTO moved for reconsideration,²⁸ which was, however, denied in a Resolution²⁹ dated April 26, 2016; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly ruled that Gutierrez was deprived of her right to procedural due process in connection with the Formal Charge issued against her.

The Court's Ruling

The petition is meritorious.

“The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. **In administrative proceedings, as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of.** ‘To be heard’ does not mean only verbal arguments in court; one may also be heard thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.”³⁰ This was extensively discussed in *Vivo v. Philippine Amusement and Gaming Corporation*³¹ as follows:

The observance of fairness in the conduct of any investigation is at the very heart of procedural due process. The essence of due process is to be heard, and, as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former a formal or trial-type hearing is not always necessary, and technical rules of procedure are not strictly applied. *Ledesma v. Court of Appeals* [(565 Phil. 731, 740 [2007])] elaborates on the well-established meaning of due process in administrative proceedings in this wise:

²⁷ See *id.* at 42-44.

²⁸ See motion for reconsideration dated February 9, 2016; *id.* at 48-57.

²⁹ *Id.* at 58-59.

³⁰ *Ebdane, Jr. v. Apurillo*, G.R. No. 204172, December 9, 2015, 777 SCRA 324, 332, citing *Department of Agrarian Reform v. Samson*, 577 Phil. 370, 380 (2008); emphasis and underscoring supplied.

³¹ 721 Phil. 34 (2013).

x x x Due process, as a constitutional precept, does not always and in all situations require a trial-type proceeding. **Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself.** In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. **The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.**³² (Emphases and underscoring supplied)

In this case, records show that the Formal Charge against Gutierrez was issued following the LTO's issuance of a Show Cause Memorandum. Under Section 16 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), a Show Cause Memorandum emanating from the disciplining authority or its authorized representative is sufficient to institute preliminary investigation proceedings, to wit:

Section 16. *How conducted.* – Within five (5) days from receipt of the complaint sufficient in form and substance, the person/s complained of shall be required to submit his/her/their counter-affidavit/comment. **Where the complaint is initiated by the disciplining authority, the disciplining authority or his authorized representative shall issue a show-cause memorandum directing the person/s complained of to explain why no administrative case should be filed against him/her/them.** The latter's failure to submit the comment/counter-affidavit/explanation shall be considered a waiver thereof and the preliminary investigation may be completed even without his/her counter-affidavit/comment.

x x x x (Emphasis and underscoring supplied)

A reading of the Show Cause Memorandum issued by the LTO shows that Gutierrez was directed to explain why no disciplinary action should be taken against her. The latter then duly complied therewith by submitting her letter-reply pursuant thereto. Evidently, Gutierrez was accorded her right to procedural due process when she was given an opportunity to be heard before the LTO found a *prima facie* case against her, which thus, necessitated the issuance of the Formal Charge. In fact, even after the issuance of a Formal Charge, the LTO continued to respect Gutierrez's right to procedural due process as it allowed her to file an Answer to refute the charges of Gross Insubordination, Refusal to Perform Official Duties, and Conduct Prejudicial to the Best Interest of the Service against her.

³² Id. at 39-40.

In light of the foregoing, the CA erred in finding that Gutierrez's right to procedural due process was violated. To recapitulate, the CA anchored such finding on the fact that the administrative case was instituted against Gutierrez because of her defiance of the Memoranda dated January 28, 2014 and February 11, 2014, and her refusal to transfer the computers of the Registration Section as per the Report dated February 17, 2014; whereas the Show Cause Memorandum only referenced one of the aforesaid Memoranda. However, a closer scrutiny of the Show Cause Memorandum and the Formal Charge reveals that their main subject is Gutierrez's continuous failure and/or refusal to temporarily relocate the equipment of the Registration Section to the Bulwagang R.F. Edu pursuant to Administrative Order No. AVT-2014-023 implementing the LTO's "Do-It-Yourself" Program, with the mention of the aforesaid Memoranda – whether in the Show Cause Memorandum or the Formal Charge – merely exhibiting such defiance.

Irrefragably, Gutierrez was amply accorded her rights to procedural due process and, thus, there is no more need to conduct another preliminary investigation on her administrative case.

WHEREFORE, the petition is **GRANTED**. The Decision dated January 7, 2016 and the Resolution dated April 26, 2016 of the Court of Appeals in CA-G.R. SP No. 139436 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Land Transportation Office is **DIRECTED** to resolve the administrative case against respondent Mercedita E. Gutierrez on the merits with reasonable dispatch.

SO ORDERED.

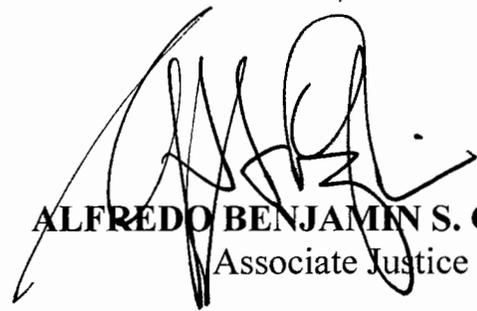

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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