

EN BANC

G.R. No. 250804 – PMAJ ALFRED C. ARTURO, Petitioner, v. PGEN OSCAR D. ALBAYALDE and PGEN RONALD M. DELA ROSA (both in their former capacity as the Chief of the Philippine National Police), Respondents.

Promulgated:

February 25, 2025

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CONCURRING OPINION

INTING, J.:

I agree with the *ponencia* that Section 45¹ of Republic Act No. 6975 limits the remedy of appeal by a member of the Philippine National Police (PNP) only in cases where the disciplinary action imposed is demotion or dismissal from service. As correctly pointed out by the *ponencia*, Section 45 of Republic Act No. 6975 cannot stand together with Book V, Title I(A), Section 47² of Executive Order No. 292 or the Revised Administrative Code.³ Thus, Police Major Alfred C. Arturo (PMAJ Arturo) correctly availed himself of the remedy of a special civil action for *certiorari* against the decision of PNP Chief Ronald Dela Rosa (Chief Dela Rosa), who found PMAJ Arturo guilty of Less Grave Neglect of Duty and imposed upon him the penalty of 50-day suspension.

I emphasize that the remedy of appeal is a purely statutory privilege.⁴ It cannot be exercised unless it is expressly granted by law.⁵ The Legislature may confer upon persons, boards, officers, and commissions the right to

¹ SECTION 45. *Finality of Disciplinary Action.* — The disciplinary action imposed upon a member of the PNP shall be final and executory: *Provided*, That a disciplinary action imposed by the regional director or by the PLEB involving demotion or dismissal from the service may be appealed to the regional appellate board within ten (10) days from receipt of the copy of the notice of decision: *Provided, further*, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof: *Provided, furthermore*, That the regional or National Appellate Board, as the case may be, shall decide the appeal within sixty (60) days from receipt of the notice of appeal: *Provided, finally*, That failure of the regional appellate board to act on the appeal within said period shall render the decision final and executory without prejudice, however, to the filing of an appeal by either party with the Secretary.

² SECTION 47. *Disciplinary Jurisdiction.* — (1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office. A complaint may be filed directly with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation. The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.

³ *Ponencia*, p. 9.

⁴ *Arellano v. Powertech Corp.*, 566 Phil. 178 (2008).

⁵ *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*, 570 Phil. 395 (2008).

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decide *with finality* many questions affecting various interests of the people of the state.⁶

In this regard, Section 45 of Republic Act No. 6975 unambiguously provides that the disciplinary action upon a member of the PNP shall be *final and executory*, except when the penalty imposed is demotion or dismissal from service, which may be appealed to the appropriate appellate board of the National Police Commission. The language of the law readily reveals the intention of the lawmakers to limit the remedy of appeal only to instances when the penalty imposed is demotion or dismissal from service, as explained in *National Appellate Board of the National Police Commission v. Mamauag*,⁷ to wit:

Section 45 of RA 6975 provides that a “**disciplinary action imposed upon a member of the PNP shall be final and executory.**” Under Section 45, a disciplinary action is appealable only if it involves either a “demotion or dismissal from the service.” If the disciplinary action is less than a demotion or dismissal from the service, the disciplinary action “shall be final and executory” as Section 45 of RA 6975 expressly mandates. Thus, a decision imposing suspension on a PNP member is not subject to appeal to a higher authority.⁸ (Emphasis in the original)

As I pointed out during the deliberations, a review of the discussion of the lawmakers in the enactment of Republic Act No. 6975 discloses that they deliberately limited the remedy of appeal from disciplinary actions imposed upon PNP members. The lawmakers were aware of the existing remedies of appeal under the Revised Administrative Code. However, they determined that certain disciplinary actions against PNP members should already be *final*, with limited grounds for appeal, to maintain the public’s confidence in the police force, prevent protracted administrative proceedings, and ensure the swift discipline of erring police officers:

CHAIRMAN [ERNESTO MACEDA (MACEDA)]. Yes. And, in fact, in the other sections, there are minor disciplinary punishments that are given to the mayor, and there are those that are given to the PNP *without having to go up to the National Police Commission*. Okay?

HON. [AQUILINO PIMENTEL (PIMENTEL)]. Mr. Chairman, itong disciplinary powers for not more than sixty days, ano, masyado itong mababa na dalhin pa ruon sa commission.⁹ (Emphasis supplied)

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⁶ *U.S. v. Jesus*, 31 Phil. 218 (1915).

⁷ 504 Phil. 186 (2005).

⁸ *Id.* at 195.

⁹ Transcript of the Bicameral Committee (PNP Bill) meeting, May 15, 1990, p. 23.

CHAIRMAN MACEDA. Yeah, but while we are about to do that flow chart if there is some revision we can agree now, like there seems to be consensus that the jurisdiction of the PNP chief should be increased over sixty days. We might as well . . . Well, that is a consensus. There is consensus that there should no longer be any appeal to the National Police Commission. *We are accepting that under the existing Administrative Law and precedent there is appeal from the PNP chief to the department secretary and to Malacañang.*

HON. [EDGARDO ANGARA (ANGARA)]. I think I would even question that in this case because then the litigation over disciplinary action will be so prolonged. *I think it would also be legal if we say that a decision at a certain level is already final. . . .*¹⁰ (Emphasis supplied)

....

CHAIRMAN MACEDA. No, this 30 days is the limit. All their decisions even below this would be appealable. They may have imposed a lower penalty. But meaning to say, they cannot impose more than 60 days or dismissal. Thirty (30) days here. If it is more than that, it's got to be the Chief of the PNP.

HON. [JOHN OSMENA (OSMENA)]. In the case of the Chief of Police, even one day is appealable?

CHAIRMAN MACEDA. Yes.

HON. [RONALD B. ZAMORA (ZAMORA)]. Mr. Chairman, that's an old point. I think we should really take a second look at the administrative machinery that we have set up for discipline. I think it is safe to say that *if you are going to be able to appeal every single decision including the most minor penalties, even for the most minor infractions, you are just going to create a whole jumble of administrative cases piled up on top of the other.* Bakit hindi na lang natin gawin, Mr. Chairman, if let us say – (interrupted)

CHAIRMAN MACEDA. That was the feeling last time, *to have some finalities somewhere.* But I suppose we'll have to hear from Senator Saguisag who is very careful about due process and human rights problems. If you say that my Chief of Police's decision is final and the decision is going to be a little more heavier, a little heavier than before, then you have that balance. *Depende sa ano eh . . .* if it's only reprimand, I'm sure even Senator Saguisag will agree.

HON. ZAMORA. For instance kung 30 days, bakit pa natin bibigyan ng appeal?¹¹ (Emphasis supplied)

....

SEN. ANGARA. . . . So the recommendation of the technical committee is to trim thick layers of proceedings, *reduce the number of*

¹⁰ *Id.* at 36.

¹¹ Transcript of the Bicameral Committee (PNP Bill) meeting, May 21, 1990, pp. 21–22.

appeals and increase the jurisdiction of each body so that there'll be fewer cases coming to each body. And I think I have enclosed a copy of the amendment, Mr. Chairman. I've not gone over the amendment myself in detail, but I accept the recommendation of our technical committee that if we follow their recommendation and we rewrite the disciplinary rules, we will improve it tremendously, simplify it, and do away with some appeal layers. So, I hope that the members could also go over it because this, I think, is very important in the whole scheme if an erring policeman can drag a case on and on, and there's no punishment coming quickly. Perhaps the whole scheme might not work at all.

REP. [RODOLFO ALBANO]. Mr. Chairman, it is true that there are three bodies that would take charge of the disciplinary action against policemen. We cannot disassociate the local executives because, precisely, our Constitution so states that the relationship of the local executives with the National Police shall be defined by law. And this is the law that we are creating. For all practical purposes, civilians do go to the Mayor to complain about misbehaviors and acts of policemen. And it is only proper that we give them a certain authority with which to discipline the policeman immediately. I recall in the discussion, in the last discussion, Senator Saguisag was present, and it was the Chairman, Senator Maceda, who said that *such disciplinary action should be final and executory, and that we cut the procedures of appealing this and that*. But that offenses should only be defined as to be able to know which body has jurisdiction. So that if it were a major offense, the Mayor should direct the complaint immediately to the [People's Law Enforcement Board (PLEB)] as the case [may be], but in the meantime, give a sort of maybe a temporary or stopgap discipline, so to speak. *But the action, final action, will be that particular body*. And so, we will go with the recommendation. But that, as I said, it was the opinion of the Chairman before that *there should be a quick and immediate response to the complaint of the civilians so that we can restore the confidence [in] our police authority*. Thank you, Mr. Chairman.

CHAIRMAN MACEDA. Senator Gonzales.

SEN. [NEPTALI GONZALES]. . . . And insofar as the disciplinary procedure, I think that in response to the demands not only of public service but also of the people who feel that they have a valid and legitimate grounds to complain against the members of the Police, then *we should adopt a procedure that is almost summary in nature*, provided that the basic rights of notice and hearing are afforded the respondent. To me, that is enough already. And we should, I mean, *we should provide a few grounds only for appeal*, and that the appeal should peremptorily already decide the case with finality. . . .¹² (Emphasis supplied)

Notably, when a question was raised on why the administrative disciplinary proceedings against PNP members are different from other civilian employees in the proposed law, it was discussed that police authorities cannot be treated in the same manner as ordinary civilian employees because their duty to the community is grave, serious, and sensitive:

¹² Transcript of the Bicameral Committee (PNP Bill) meeting, September 12, 1990, pp. 22-24.



MR. [JOSE A. ROÑO (ROÑO)]. Yes, but let me ask you one question, Mr. Commissioner. If you accept that the organization is civilian in character, why do you differ now in the procedure of administrative discipline from government employees who are civilians? In other words, why don't we go through the same procedure and then after every municipal board or through the mayor then it goes to the civil service? This is civilian, this is not a military organization.

MR. [CICERO C. CAMPOS (CAMPOS)]. Precisely, Your Honor, you must have that peculiarity and specialty. The police service has to be treated in a different fashion from that of other civilian agencies of the government. Actually, what we intended to do is rationalize it but if you look at the present situation, the present set-up, the policemen or members of the INP are the most harassed individuals in this country. I would state so because you have first its internal disciplinary machinery. On top of that, they are covered by the Articles of War under PD 1850; they are also subject to the external discipline, administrative at that, by the National Police Commission and on top of that they could be charged also with the Tanodbayan.

MR. ROÑO. Everyone of us here can be charged. What I mean is the civilian character. That is the point I am raising.

MR. CAMPOS. Precisely, Mr. Chairman, that is why we are now trying to make it civilian in character but the nature of the police service cannot be treated in the same manner as ordinary civilian employee or civilian agencies of the government because *the job that they have is something that is quite grave and serious and sensitive for that matter.*¹³ (Emphasis supplied)

The lawmakers pointed out that police officers are legally allowed to use force and violence in the enforcement of laws.¹⁴ It was emphasized that the people traded some of their privileges to police authorities in exchange for protection; thus, the people have a right to require a more stringent and stricter discipline against police officers:


MR. GORDON. . . . In conclusion, I realize that in putting the local police under the authority and control of the mayor, I am making each policeman carry a greater burden of responsibility as the mayor and, of course, the people will demand more of his services. But this is only proper, for *the people have traded-off and surrendered to a policeman some of their basic privileges in exchange for the protection of their lives, limbs and property. In consideration of this, people have the right to require of him a more stringer and stricter discipline and stiffer penalty for the offense he may commit in his job.*¹⁵ (Emphasis supplied)

From the foregoing, it is evident that in enacting Republic Act No. 6975, the Legislature deliberately limited the remedy of appeal only in cases when the penalty imposed is demotion or dismissal from service; all other disciplinary actions shall be final and executory. Congress restricted the grounds for appeal to maintain the public's confidence in the police force. It distinguished between the administrative proceedings for ordinary civilian

¹³ Transcript of the Committee on Public Order and Security meeting, September 23, 1987, pp. 18-19.

¹⁴ Minutes of the Second Reading of House Bill No. 23614, April 26, 1989, p. 4.

¹⁵ Minutes of the Second Reading of House Bill No. 23614, May 3, 1989, p. 9.



employees and PNP members because the latter are involved in maintaining order and are even authorized to use force in the performance of their duties.

Although Section 91 of Republic Act No. 6975 states that “[t]he Civil Service Law and its implementing rules and regulations shall apply to *all* personnel of the Department,” it should, nonetheless, be pointed out that Section 95 of the same law includes a *repealing* clause which states that “[t]he provisions of Executive Order No. 262 shall remain valid insofar as they are *not inconsistent* with the provisions of this Act.”

I agree with the *ponencia* that Section 45 of Republic Act No. 6975 prevails over Book V, Title I(A), Section 47 of Executive Order No. 262 because the former was enacted *specifically* for the PNP.¹⁶ A similar conclusion was reached by the Court in *Calingin v. Court of Appeals*,¹⁷ to wit:

In *Lapid v. Court of Appeals*, we held that it is a principle of statutory construction that where there are two statutes that apply to a particular case, that which was specially intended for the said case must prevail. The case on hand involves a disciplinary action against an elective local official. Thus, the Local Government Code is the applicable law and must prevail over the Administrative Code which is of general application. Further, the Local Government Code of 1991 was enacted much later than the Administrative Code of 1987. In statutory construction, all laws or parts thereof which are inconsistent with the later law are repealed or modified accordingly.

Section 45 of Republic Act No. 6975 *impliedly repealed* Book V, Title I(A), Section 47 of Executive Order No. 262 insofar as members of the PNP are concerned. “Implied repeal by *irreconcilable inconsistency* takes place when the two statutes cover the same subject matter; they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and both cannot be given effect, that is, that one law cannot be enforced without nullifying the other.”¹⁸ All the requirements for an implied repeal have been met in the present case.

First, insofar as PNP members are concerned, Section 45 of Republic Act No. 6975 and Book V, Title I(A), Section 47 of Executive Order No. 262 deal with the same subject matter, i.e., appeals from disciplinary actions imposed upon members of the PNP.¹⁹ *Second*, the two provisions of laws are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized. Verily, where members of the PNP are concerned, the two laws cannot be applied simultaneously, as Republic Act No. 6975

¹⁶ See *Lapid v. Court of Appeals*, 390 Phil. 236 (2000).

¹⁷ *Calingin v. Court of Appeals*, 478 Phil. 231 (2004).

¹⁸ *Mecano v. Commission on Audit*, 290-A Phil. 272 (1992).

¹⁹ See *Commissioner of Internal Revenue v. Primetown Property Group, Inc.*, 558 Phil. 182 (2007).

disallows appeals from disciplinary actions other than demotion or dismissal, while Executive Order No. 262 would allow appeals for disciplinary actions other than demotion or dismissal from service. *Finally*, the application of the pertinent provision of Executive Order No. 262 in the present case would nullify Section 45 of Republic Act No. 6975.

Accordingly, it was correct for PMAJ Arturo to file a petition for *certiorari* against PNP Chief Dela Rosa's Decision, which imposed the penalty of 50-day suspension against PMAJ Arturo. Considering that the disciplinary action does not involve demotion or dismissal, PMAJ Arturo had no other remedy except to assail the Decision through a special action for *certiorari*.

Still, as pointed out by the *ponencia*, PMAJ Arturo failed to discharge his burden to prove that the disciplinary action imposed upon him was tainted with grave abuse of discretion. There is grave abuse of discretion when an act (1) is done contrary to the Constitution, the law, jurisprudence, or evidence, or is executed whimsically, capriciously or arbitrarily, out of malice, ill will, or personal bias; (2) manifestly disregards basic rules or procedures; or (3) is shown to have been made arbitrarily or in disregard of the evidence on record.²⁰ In the absence of these circumstances, there would be no basis to set aside PNP Chief Dela Rosa's decision to impose the penalty of 50-day suspension against PMAJ Arturo.

I thus vote to **DISMISS** the Petition.


HENRI JEAN PAUL B. INTING
Associate Justice

²⁰ *Pascua v. People*, 881 Phil. 802, 809 (2020); *Eureka Personnel & Management Services, Inc. v. Valencia*, 610 Phil. 444 (2009).