

SINGUN, Winston T.
Re: Resignation; Appeal

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RESOLUTION NO. 002651

Winston T. Singun, Chief Trade and Industry Development Specialist, Department of Trade and Industry - Cagayan Provincial Office (DTI-CPO) No. II, Tuguegarao City, declaring him as having been legally separated from the service.

Said Decision reads, in part, as follows:

"The issue therefore is whether or not the detail order from Undersecretary Ordoñez affected the resignation. It did not.

"It must be noted that the resignation was duly accepted by Director Hipolito, Hence, granting that it is withdrawn, the approval of Director Hipolito is also necessary for the withdrawal to be effective. The issuance of the detail order emanating from the Office of the Undersecretary did not in any way affect or withdrew (sic) the resignation of Mr. Singun because first, there was no reference in the detail order that the issuance thereof effectively withdrew the resignation. Secondly, the Undersecretary is not empowered to accept or withdraw resignations made by employees to which he is not the appointing authority. It is clear in this case that the appointing authority of Singun is the Regional Director and any or all personnel actions has to be done thru (sic) his instance.

"WHEREFORE, premises considered, the request of Mr. Winston T. Singun for the reconsideration of our opinion (LO-000202) dated February 2, 2000 is hereby denied.


"Accordingly, LO-000202 dated February 2, 2000 is hereby affirmed, Mr. Winston T. Singun, therefore is considered resigned as of 14 January, 2000."

The material allegations of Singun is his appeal are, as follows:

"4. Appellee Atty. Jose T. Soria erred in ruling that the appellant is considered resigned as of 14 January 2000 merely on the basis of appellant's memorandum of resignation dated 12 November 1999, without ruling on the appellant's averment that said 12 November 1999 memorandum of resignation was made by the appellant under duress; and

"5. The appellee erred in ruling that the aforementioned memorandum of resignation of the appellant was duly accepted by Engr. Jose V. Hipolito, Regional Director, Department of Trade and Industry - Region 2 before the purported effective date thereof on 14 January 2000 as said ruling was not duly supported by the facts nor by evidence on record."

From the foregoing allegations, Singun prays that:

"36.  Decision No. A-000301 dated 5 June 2000 of appellee Atty. Soria be reversed and set aside, and that this Honorable Commission rule that the appellant continues to be in government service without any gap in such service, and that appellant is entitled to his salaries and other benefits withheld from him by Director Hipolito beginning 1 January 2000;

"37. In view of the appellant's current detail with the Office of Special Concerns - DTI Head Office, and in the interest of justice and equity, the appellant also prays that this Honorable Commission will issue an order against DTI --Region II through Director Hipolito from dropping the appellant from the payroll so that appellant may continue to withdraw his salaries for services rendered while on detail with the Office of Special Concerns - DTI Head Office during the pendency of this appeal;

"38. Appellant further prays for other reliefs just and equitable under the premises."

DTI Undersecretary Ernesto M. Ordoez submitted his comment which reads, in part, as follows:

"1.3 It is true that Mr. Singun personally appeared before me on 14 January 2000 to ask my help to enable him to remain in the service at least until 31 July 2000 so that he may be able to receive whatever meager retirement benefits he may be entitled to after rendering fifteen (15) years in government service. Mr. Singun likewise told me that it was not really his intention to resign effective close of office on 14 January 2000 as reflected in his memorandum to DTI-Region II Director Jose V. Hipolito dated 12 November 1999, but that the same was allegedly imposed upon Mr. Singun by Director Hipolito as a condition for the latter to approve the former's application for leave. "1.4 Finding the request of Mr. Singun meritorious in the light of the acrimonious relationship between him and Director Hipolito (which I will discuss in more detail later), I issued Memorandum Order No. 20 on 14 January 2000 affecting Mr. Singun's detail to my office effective 17 January 2000.

"1.5 However, prior to releasing the aforementioned Memorandum Order No. 20, I talked to Director Hipolito over the telephone to ask him if he has any objection or is aware of any impediment to the detail of Mr. Singun to my office until 31 July 2000. Director Hipolito answered in the negative, and even expressed relief that Mr. Singun would at least be detailed out of Region II for the latter is supposedly giving him (Director Hipolito) ' a lot headaches', but without giving particulars. It was after this telephone conversation that I caused the release of Memorandum Order No. 20, which was initially sent to the Office of Director Hipolito via fax on the afternoon of 14 January 2000.

"1.6 Thinking that the matter of Mr. Singun's detail to my office was already settled, I was thus surprised when I received Director Hipolito's memorandum dated 11 February 2000 informing me that the detail of Mr. Singun to my office is without force and effect considering the due acceptance and approval of Mr. Singun's resignation effective 14 January 2000.

"1.7 After receiving Mr. Singun's comments on Director Hipolito's memorandum dated 11 February 2000. I transmitted a copy thereof to Director Hipolito through a memorandum dated 2 March 2000. In the same memorandum, I asked Director Hipolito to explain in writing why he failed to mention in our telephone conversation last 14 January 2000, adverted to in paragraph 1.4 above, the alleged 'fact' that he has earlier accepted Mr. Singun's alleged resignation effective close of office on 14 January 2000. I also asked Director Hipolito to explain why it took him almost one full month to raise that issue before me belatedly through his memorandum of 11 February 2000.

"1.8 In a memorandum dated 5 April 2000, I reminded Director Hipolito to submit his response to my memorandum dated 2 March 2000 regarding Mr. Singun's alleged 'resignation'.

1.9 In response to my two (2) previous memoranda dated 2 March 2000 and 5 April 2000, Director Hipolito sent me his memorandum dated 11 April 2000 which, however, did not squarely address my questions: [1] Why did he (Director Hipolito) fail to mention to me during our telephone conversation last 14 January 2000 about his alleged acceptance of Mr. Singun's resignation.

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"3.2 Notwithstanding Mr. Singun's failure to receive his salary since 1 January up to the present as an off-shoot of the pendency of this case, Mr. Singun continues to discharge his duties and assignments with the Office of Special Concerns of this Department where he was subsequently detailed. More than being sufficient proof that it was not, and is not, the intention of Mr. Singun to leave government service effective 14 January 2000. Mr. Singun's continuous service to the government notwithstanding the sacrifices tht he personally and his family have to endure arising from his failure to receive his salary for the past eight (8) months is a shining example of our civil servants' dedication to country and duty, especially now that we are on the eve of celebrating the centennial of the Civil Service."

The salient facts, as borne out by the records, are as follows:

In a memorandum dated November 12, 1999, Singun requested Regional Director Jose V. Hipolito, DTI Regional Office No. II, that he (Singun) be allowed to go on leave of absence effective November 16, 1999 to January 14, 2000. The request was approved by Regional Director Hipolito as manifested by his signature below the word "APPROVED" at the bottom portion of said memorandum. To get a clearer picture of the nature of the request of Singun, his memorandum dated November 12, 1999 is hereto reproduced, as follows:

"FOR: Engr. Jose V. Hipolito Regional Director, DTI-ROII

"THROUGH: Engr. Bernardino G. Maborang Provincial Director, DTI-Cagayan

"SUBJECT: APPLICATION FOR LEAVE OF ABSENCE AND RESIGNATION

"DATE : November 12, 1999

"I would like to apply for leave of absence for the period November 16, 1999 to January 14, 2000. Further, I would like to resign from DTI effective at the close of office hours of January 14, 2000.

"Attached is my application for leave form.

"For your consideration and appropriate action.

(SGD.) "WINSTON T. SINGUN "CTIDS, DT-Cagayan

"APPROVED

(SGD.) "JOSE V. HIPOLITO "Regional Director

On the very same day of November 12, 1999, Regional Director Hipolito issued a memorandum addressed to Singun apparently approving his twin requests. Said memorandum reads:

"This is to inform you that your request for a Leave of Absence for the period 16 November 1999 to 14 January 2000 is approved. Likewise, this office accepts your resignation from DTI-RO II effective at the close of office hours of 14 January 2000.

"In this connection, you are advised to clear yourself of all money and property accountabilities from the Provincial and Regional Office."

In the meantime, or specifically on January 14, 2000, Singun personally appeared at the Office of DTI Undersecretary Ordoñez to seek the latter's assistance in withdrawing his earlier request to resign. He explained to Undersecretary Ordoñez that he has to stay on in his position until July 31, 2000 so he could fully complete the 15-year service requirement to enable him to avail of retirement benefits. In response, Undersecretary Ordoñez issued Memorandum Order No. 20, s. 2000, dated January 14, 2000, ordering the detail of Singun to the Office of the Undersecretary for Regional Operations effective January 17, 2000. The memorandum order reads:

"In the interest of the service, Mr. WINSTON T. SINGUN is hereby detailed to the Office of the Undersecretary for Regional Operations effective 17 January 2000.

"Mr. Singun is hereby instructed to clear himself of all his money and property accountabilities prior to reporting to his new assignment.

"This order shall continue to remain in force until superseded or revoked."

The said memorandum order was faxed to the Office of Regional Director Hipolito on the very same day that it was issued - January 14, 2000. And on January 17, 2000, a copy of the same memorandum was personally delivered to the Office of Regional Director Hipolito.

The issue on whether Singun was deemed to have legally resigned from the service eventually reached the CSCRO No. II for resolution. Acting on the issue posed, the CSCRO No. II ruled that despite the issuance of the Order directing his detail to the Office of the DTI Undersecretary, Singun was considered resigned effective January 14, 2000.

Singun further claims that as a result of the foregoing, he was not paid his salaries and other benefits effective January 1, 2000 up to the present despite the fact that he had been religiously reporting for work at the Office of the Undersecretary where he was ordered detailed.

Hence, the instant appeal where the paramount issue to be resolved is whether Singun was indeed deemed to have legally resigned from the service effective January 14, 2000.

There is no dispute that Singun tendered his resignation to Regional Director Hipolito to take effect on January 14, 2000. But it is likewise undisputed that on the very day that his cessation from office is to take effect, DTI Undersecretary Ordoñez ordered his detail to his office. This act of Undersecretary Ordoñez, who is the immediate superior of Regional Director Hipolito, is a tacit, if not express, repudiation and revocation of the ostensible acceptance by the latter of the supposed resignation of Singun. This, in effect, can be construed as if no acceptance was ever made on the tender of resignation of Singun.

Finally, even on the assumption that Singun's tender of resignation was indeed accepted, such acceptance is inoperative and inefficacious. This is so simply because there is no showing from the records that Singun was duly informed of said acceptance. In fact, there is no mention whatsoever that Singun was informed of the acceptance of his resignation. This being the case, it cannot be concluded that Singun had, either impliedly or expressly, surrendered, renounced, or relinquished his office. In explaining this precept, the Commission, in CSC Resolution No. 00-2394 dated October 18, 2000, held:

"It is explicit that resignation, as a mode of terminating the employee's official relations, is preconditioned on the (i) written notice of the concerned employee to serve his employment tie coupled with an act of relinquishing the office; and (ii) acceptance by the appointing authority for which the employee shall have been properly notified"

WHEREFORE, the appeal of Winston T. Singun is hereby GRANTED. Accordingly, his resignation is declared inoperative and inefficacious. The payment of his salaries and other benefits from January 1, 2000 is ordered.

Quezon City, November 27, 2000

(Sgd.) JOSE F. ERESTAIN, JR.

Commissioner

O.B.

CORAZON ALMA G. DE LEON

Chairman

(Sgd.) J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(Sgd.) ARIEL G. RONQUILLO

Director III