

ADOFINA, Diomedes A.

Re: Reinstatement; Petition for Relief

X-----X

RESOLUTION NO. 990538

The Laguna State Polytechnic College (LSPC), Siniloan, Laguna, through counsel, filed a Petition for Relief from **CSC Resolution Nos. 96-0933** and **96-3639** dated February 13, 1996 and June 7, 1996, respectively, which ordered the reinstatement of, but without payment of backwages to, Diomedes A. Adofina, Security Guard at LSPC.

Pertinent portions of the Petition for Relief are, as follows:

X X X

"In Resolution No. 96-0933 dated February 13, 1996, this Hon. Commission, subject to the qualification that there is no separate administrative charge against him, the reinstatement of subject employee Diomedes A. Adofina to his former position was granted. In the meantime that the Administration of the Laguna State Polytechnic College is considering the legality of his reinstatement, said employee was able to obtain from this Hon. Commission Resolution No. 96-3639, a copy of which was received by the LSPC last July 9, 1996, alleging, as basis, that the LSPC Administration refused to reinstate him for reasons unknown to him. This is a gross misrepresentation on the part of said employee, for he is fully and personally aware that there are pending administrative cases against him, to wit:

"1) FISHPOND POISONING filed on May 1, 1990;

"2) THROWING OF ROCKS filed on November 21, 1988;

"3) DESTROYING GOVERNMENT PROPERTY (BELL) filed on October 16, 1990; and

"4) ASSAULT OF THE ASSISTANT CHIEF OF SECURITY filed on December 17, 1990 all pending against him of which administrative cases he was duly apprized by the LSPC Administration thru Atty. Cayetano T. Santos, LSPC Legal Consultant in the latter's but maliciously, fraudently and deliberately failed to disclose in his letter-appeal to this Hon. Commission. The herein LSPC Administration failed to oppose his said letter-appeal in view of the fact that no copy thereof was furnished to it by said employee.

"Furthermore, had a copy thereof been furnished or served to the LSPC Administration, the following criminal cases filed after his release from prison against said employee which rendered him unfit, due to his questionable integrity honesty, qualification and probity to be reinstated to or re-entrusted the position of an armed security man in this educational institution should have been reported by the administrative officers of this institution to this Hon. Commission, for its reconsideration of its subject Resolutions, to wit:

<i>"Criminal Case Nos.</i>	<i>Crime</i>	<i>Date filed (before the MTC and Siniloan, Laguna)</i>
<i>"4226</i>	<i>Illegal Possesion of Deadly Weapon</i>	<i>February 20, 1995</i>
<i>"4227</i>	<i>Resistance and Dis-Obidience to Agent of Person in Authority</i>	<i>February 20, 1995</i>
<i>"4234</i>	<i>Attempted Homecide</i>	<i>March 13, 1995"</i>

In his opposition to the petition, Adofina avers, as follows:

X X X

"I have communicated to them my intention to be reinstated as Security Guard II in LSPC right after I was released from prison x x x on January 3, 1995. Sometime in May 1996, I received a letter from Atty. Cayetano T. Santos informing me that, I cannot be reinstated as Security Guard II considering that I have several pending cases. In view of this, I sent a letter to LSPC President, Dr. Ricardo A. Wagan, dated June 3, 1996 and received by his office on same date x x x requesting him to furnish me a copy of such administrative cases against me which are allegedly pending since November 1990. In such letter of mine, I ask him why are there pending cases against me despite the lapse of six (6) long years, is it not contrary to the legal maxim ' Justice delay Justice denied.' But after the lapse of fifteen (15) days the Hon.LSPC President never furnished me of any pending administrative cases against me even up as to this date. The only notice I received that I have administrative pending case is the letter of Atty. Cayetano Santos but no copy any administrative charges against me attached thereto. What happened to my constitutional rights to be informed of the nature and cause of accusations against me. Legally, since no copy of any charges means nothing.

X X X

"With utmost respect to Atty. Enrique C. Villanueva the criminal cases which he have enumerated in his letter to this Honorable Office dated July 25, 1995 were all dismissed, x x x."

X X X

After a judicious evaluation of the records of the case, we are constrained to deny the instant petition.

First of all, while it may be true that the finality and executory character of **Resolution No. 96-0933** is

precisely the reason LSPC filed a Petition for Relief, still, we cannot give due course to the same. There is nothing in the **Civil Service Law and Rules (Book V of Executive Order No. 292)** and in the CSC's Uniform Rules of Procedure granting the Commission the authority to hear and entertain Petitions for Relief.

Secondly, there is no merit to the contention of the LSPC that they cannot reinstate Adofina because of the several administrative charges filed against him.

There is nothing in the records which prove that there exist administrative charges against Adofina. LSPC failed to present convincing evidence to prove such allegation. It is a well-settled rule that a party must prove his own allegations. Failing in this respect, their petition must fail. **(Geraldez vs. CA (231 SCRA 320))**

Granting en arguendo that there exists administrative complaints against Adofina, such would not have the effect of totally hindering the reinstatement of Adofina. Only by a finding of guilt in said administrative charges and the imposition of dismissal as a penalty can he be refused reinstatement.

Records, however, show the existence of criminal complaints against Adofina. Nevertheless, the same cannot bar his reinstatement until and unless the criminal cases are terminated and a verdict of conviction is reached whereby the penalty of disqualification from holding public office is a necessary consequence.

WHEREFORE, the instant petition is dismissed for lack of merit. Accordingly, **CSC Resolution Nos. 96-0933** and **96-3639** stand. Thus, Diomedes Adofina should be reinstated to his former position and if it is no longer available, to a comparable position.

Quezon City, March 02, 1999

(Sgd) CORAZON ALMA G. DE LEON

Chairman

(Sgd) THELMA P. GAMINDE
Commissioner

(Sgd) JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

(Sgd) ARIEL G. RONQUILLO
Director III