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WHEREFORE, the petition for review is *GRANTED*. The decision of the Court of Appeals is affirmed with regard to petitioner Rene Tapalla, but modified with regard to Gil Tapalla whom we find guilty of the lesser crime of less serious physical injuries. He is hereby sentenced to suffer a straight penalty of four (4) months of *arresto mayor*. Both accused shall be credited in the service of their respective sentences with the full period of their preventive imprisonment.

The records of this case do not show that the civil action had been waived, instituted separately, or instituted prior to the criminal action. Since both the trial court and the Court of Appeals failed to render any judgment on the civil liability of the accused, we further sentence Rene Tapalla to pay indemnity to the heirs of Ernesto Roy the sum of ₱50,000.00 for his death.

SO ORDERED.

Cruz (Chairman), Bellosillo, and *Quiason, JJ*., concur.

SECOND DIVISION

[G.R. No. 100947. May 31, 1993]

PNOC ENERGY DEVELOPMENT CORPORATION AND MARCELINO TONGCO, *petitioners, vs.* **NATIONAL LABOR RELATIONS COMMISSION and MANUEL S. PINEDA,** *respondents*.

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; CIVIL SERVICE; GOVERNMENT- OWNED OR CONTROLLED CORPORATIONS WITHOUT ORIGINAL CHARTERS, NOT EMBRACED THEREIN. — Section 2 (1), Article IX of the 1987 Constitution provides as follows: "The civil service

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embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters." Implicit in the provision is that government-owned or controlled corporations without original charters — i.e., organized under the general law, the Corporation Code — are not comprehended within the Civil Service, and their employees are not subject to Civil Service Law. So has this Court construed the provision.

2. ID.; OMNIBUS ELECTION CODE; CANDIDATES HOLDING APPOINTIVE OFFICE OR POSITION CONSIDERED *IPSO FACTO* RESIGNED UPON FILING OF CERTIFICATE OF CANDIDACY; APPLIES TO OFFICERS AND EMPLOYEES IN GOVERNMENT-OWNED AND CONTROLLED CORPORATION WITH OR WITHOUT ORIGINAL CHARTERS. — When the Congress of the Philippines reviewed the Omnibus Election Code of 1985, in connection with its deliberations on and subsequent enactment of related and repealing legislation — *i.e.*, Republic Acts Numbered 7166: "An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes" (effective November 26, 1991), 6646: "An Act Introducing Additional Reforms in the Electoral System and for Other Purposes" (effective January 5, 1988) and 6636: "An Act Resetting the Local Elections, *etc*." (effective November 6, 1987), it was no doubt aware that in light of Section 2(1), Article IX of the 1987 Constitution: (a) government-owned or controlled corporations were of two (2) categories — those with original charters, and those organized under the general law — and (b) employees of these corporations were of two (2) kinds — those covered by the Civil Service Law, rules and regulations because employed in corporations having original charters, and those not subject to Civil Service Law but to the Labor Code because employed in said corporations organized under the general law, or the Corporation Code. Yet Congress made no effort to distinguish between these two classes of government-owned or controlled corporations or their employees in the Omnibus Election Code or subsequent related statutes, particularly as regards the rule that an any employee "in government-owned or controlled corporations, shall be considered *ipso facto* resigned from his office upon the filing

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of his certificate of candidacy." What all this imports is that Section 66 of the Omnibus Election Code applies to officers and employees in government-owned or controlled corporations, even those organized under the general laws on incorporation and therefore not having an original or legislative charter, and even if they do not fall under the Civil Service Law but under the Labor Code. In other words, Section 66 constitutes just cause for termination of employment in addition to those set forth in the Labor Code, as amended.

APPEARANCES OF COUNSEL

Alikpala, Gomez & Associates Law Office for petitioners.
Filomeno A. Zeta for private respondent.

D E C I S I O N

NARVASA, *C.J.*:

The applicability to private respondent Manuel S. Pineda of Section 66 of the Election Code is what is chiefly involved in the case at bar. Said section reads as follows:

"Section 66. *Candidates holding appointive office or position.* — Any person holding a public appointive office or position, including active members of the Armed Forces of the Philippines, and officers and employees in government-owned or controlled corporations, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy."

Manuel S. Pineda was employed with the Philippine National Oil Co. - Energy Development Corp. (PNOC-EDC), a subsidiary of the Philippine National Oil Co., from September 17, 1981, when he was hired as clerk, to January 26, 1989, when his employment was terminated. The events leading to his dismissal from his job are not disputed.

In November, 1987, while holding the position of Geothermal Construction Secretary, Engineering and Construction Department, at Tongonan Geothermal Project, Ormoc City, Pineda decided to run for councilor of the Municipality of

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Kananga, Leyte, in the local elections scheduled in January, 1988, and filed the corresponding certificate of candidacy for the position. Objection to Pineda's being a candidate while retaining his job in the PNOC-EDC was shortly thereafter registered by Mayor Arturo Cornejos of Kananga, Leyte. The mayor communicated with the PNOC-EDC — thru Engr. Ernesto Patanao, Resident Manager, Tongonan Geothermal Project — to express the view that Pineda could not actively participate in politics unless he officially resigned from PNOC-EDC.[1] Nothing seems to have resulted from this protest.

The local elections in Leyte, scheduled for January, 1988, were reset to and held on February 1, 1988. Pineda was among the official candidates voted for, and eventually proclaimed elected to, the office of councilor. Some vacillation appears to have been evinced by Pineda at about this time. On February 8, 1988, he wrote to the COMELEC Chairman, expressing his desire to withdraw from the political contest on account of what he considered to be election irregularities;[2] and on March 19, 1988, he wrote to the Secretary of Justice seeking legal opinion on the question, among others, of whether or not he was "considered automatically resigned upon *** filing of *** (his) certificate of candidacy," and whether or not, in case he was elected, he could "remain appointed to any corporate offspring of a government-owned or controlled corporation."[3] Nevertheless, Pineda took his oath of office in June, 1988 as councilor-elect of the Municipality of Kananga, Leyte.[4] And despite so qualifying as councilor, and assuming his duties as such, he continued working for PNOC-EDC as the latter's Geothermal Construction Secretary, Engineering and Construction Department, at Tongonan Geothermal Project, Ormoc City.

On June 7, 1988, Marcelino M. Tongco, Department Manager of the Engineering and Construction Department, PNOC-EDC,

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[1] *Rollo*, p. 103 (Public respondents' Comment, p. 2).

[2] Annex B, Petition; *rollo*, p. 104.

[3] Annex C, Petition.

[4] *Rollo*, p. 104.

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addressed an inquiry to the latter's Legal Department regarding the status of Manuel S. Pineda as employee in view of his candidacy for the office of municipal councilor.[5] In response, the Legal Department rendered an opinion to the effect that Manuel S. Pineda should be considered *ipso facto* resigned upon the filing of his Certificate of Candidacy in November, 1987, in accordance with Section 66 of the Omnibus Election Code.[6]

Pineda appealed the PNOC-EDC Legal Department's ruling to N.C. Vasquez, the Vice President of PNOC-EDC, on July 14, 1988. In his letter of appeal,[7] he invoked a "court ruling in the case of *Caagusan and Donato vs. PNOC-Exploration Corp.* *** (to the effect that) while the government-owned or controlled corporations are covered by the Civil Service Law (as is taken to mean in Sec. 66 of the Omnibus Election Code of 1985) (sic), the subsidiaries or corporate offsprings are not." In the same letter he declared his wish to continue working with PNOC-EDC and his willingness to voluntarily resign from his position as councilor/member of the Sangguniang Bayan.

He also wrote a letter dated October 17, 1988 to the Department of Local Government inquiring about the status of his employment with PNOC-EDC in relation to his election as member of the Sangguniang Bayan. He was advised by DLG Undersecretary Jacinto T. Rubillo Jr., by letter dated March 31, 1989, that there was no legal impediment to his continuing in his employment with PNOC-EDC while holding at the same time the elective position of municipal councilor. Cited as basis by Undersecretary Rubillo was Section 2(1) Article IX-B of the 1987 Constitution and this Court's ruling in *NASECO VS. NLRC*, 168 SCRA 122. Undersecretary Rubillo went on to say that Pineda could receive his *per diems* as municipal councilor as well as the corresponding representation and transportation

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[5] Annex D, Petition.

[6] Annex E, Petition.

[7] Annex F, Petition.

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allowance (RATA) "provided the PNOC-EDC charter does not provide otherwise and public service shall not be prejudiced."[8]

The PNOC-EDC did not, however, share the Undersecretary's views. On January 26, 1989, the PNOC-EDC, through Marcelino Tongco (Manager, Engineering and Construction Department), notified Manuel S. Pineda in writing (1) that after having given him "ample time" to make some major adjustments before *** separation from the company," his employment was being terminated pursuant to Section 66 of the Omnibus Election Code, effective upon receipt of notice, and (2) that he was entitled to "proper compensation" for the services rendered by him from the time he filed his certificate of candidacy until his actual separation from the service.[9]

On October 16, 1989, Pineda lodged a complaint for illegal dismissal in the Regional Arbitration Branch No. VIII, NLRC, Tacloban City. Impleaded as respondents were the PNOC-EDC and the Manager of its Engineering and Construction Department, Marcelino M. Tongco.[10]

After due proceedings, Labor Arbiter Araceli H. Maraya, to whom the case was assigned, rendered a decision on December 28, 1990,[11] declaring Manuel S. Pineda's dismissal from the service illegal, and ordering his reinstatement to his former position without loss of seniority rights and payment of full back wages corresponding to the period from his illegal dismissal up to the time of actual reinstatement. The Arbiter pointed out that the ruling relied upon by PNOC-EDC to justify Pineda's dismissal from the service, *i.e., NHA v. Juco,*[12] had already been abandoned; and that "as early as November 29, 1988," the governing principle laid down by case law — in light of Section

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[8] *Rollo,* pp. 105-106 (Public Respondent's Comment, pp. 4-5).

[9] Annex G, Petition; *rollo,* p. 106.

[10] Annex H, Petition.

[11] *Rollo,* pp. 49-55.

[12] G.R. No. 64313, January 17, 1985, 134 SCRA 172.

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2(1), Article IX-B of the 1987 Constitution[13] — has been that government-owned or controlled corporations incorporated under the Corporation Code, the general law — as distinguished from those created by special charter — are not deemed to be within the coverage of the Civil Service Law, and consequently their employees, like those of the PNOC-EDC, are subject to the provisions of the Labor Code rather than the Civil Service Law.[14]

The PNOC-EDC filed an appeal with the National Labor Relations Commission. The latter dismissed the appeal for lack of merit in a decision dated April 24, 1991.[15] PNOC-EDC sought reconsideration;[16] its motion was denied by the Commission in a Resolution dated June 21, 1991.[17]

It is this Decision of April 24, 1991 and the Resolution of June 21, 1991 that the PNOC-EDC seeks to be annulled and set aside in the special civil action for *certiorari* at bar. It contends that the respondent Commission gravely abused its discretion:

1) when it ruled that Manuel S. Pineda was not covered by the Civil Service Rules when he filed his candidacy for the 1988 local government elections in November 1987;

2) when it ruled that Pineda was not covered by the Omnibus Election Code at the time he filed his certificate of candidacy for the 1988 local elections;

3) when it ruled that Pineda was illegally dismissed despite the fact that he was considered automatically resigned pursuant to Section 66 of the Omnibus Election Code; and

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[13] Said provision reads as follows: "The Civil Service embraces branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.".

[14] *National Service Corporation (NASECO) v. NLRC*, 168 SCRA 124 (1988); *PNOC-EDC v. Deputy Minister of Labor and Vicente Ellelina*, G.R. No. 58494, July 5, 1989.

[15] Cited, in addition to *NASECO v. NLRC, supra*, was *Lumanta v. NLRC*, 170 SCRA 79 (1989).

[16] *Rollo*, pp. 75-81.

[17] *Id.*, pp. 83-84.

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4) when it ruled that Pineda could occupy a local government position and be simultaneously employed in a government-owned or control corporation, a situation patently violative of the constitutional prohibition on additional compensation.

Acting on the petition, this Court issued a temporary restraining order enjoining the respondent NLRC from implementing or enforcing its decision and resolution dated April 24, 1991 and June 21, 1991, respectively.

In the comment required of him by the Court, the Solicitor General expressed agreement with the respondent Commission's holding that Manuel Pineda had indeed been illegally separated from his employment in the PNOC-EDC; in other words, that his running for public office and his election thereto had no effect on his employment with the PNOC-EDC, a corporation not embraced within the Civil Service.

Petitioner PNOC-EDC argues that at the time that Pineda filed his certificate of candidacy for municipal councilor in November, 1987, the case law "applicable as far as coverage of government-owned or controlled corporations are concerned *** (was to the following effect):[18]

'As correctly pointed out by the Solicitor General, the issue of jurisdiction had been resolved in a string of cases starting with the *National Housing Authority vs. Juco* (134 SCRA 172) followed by *Metropolitan Waterworks and Sewerage System vs. Hernandez* (143 SCRA 602) and the comparatively recent case of *Quimpo vs. Sandiganbayan* (G.R. No. 72553, Dec. 2, 1986) in which this Court squarely ruled that PNOC subsidiaries, whether or not originally created as government-owned or controlled corporations are governed by the Civil Service Law.'"

This doctrine, petitioner further argues, was not "automatically reversed" by the 1987 Constitution because not "amended or repealed by the Supreme Court or the Congress;"[19] and this

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[18] *Rollo*, p. 10, italics supplied.

[19] SEC. 10, ART. XIII of the Constitution (Transitory Provisions) pertinently providing that the "provisions of the existing Rules of Court,

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Court's decision in November, 1988, in *National Service Corporation vs. NLRC, supra*[20] — abandoning the Juco ruling — "cannot be given retroactive effect *** (in view of) the time-honored principle *** that laws (judicial decisions included) shall have no retroactive effect, unless the contrary is provided (Articles 4 and 8 of the New Civil Code of the Philippines)."

Section 2 (1), Article IX of the 1987 Constitution provides as follows:

"The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters."

Implicit in the provision is that government-owned or controlled corporations without original charters — *i.e.*, organized under the general law, the Corporation Code — are not comprehended within the Civil Service, and their employees are not subject to Civil Service Law. So has this Court construed the provision.[21]

In *National Service Corporation (NASECO), et al. v. NLRC, et al., etc.*,[22] decided on November 29, 1988, it was ruled that the 1987 Constitution "starkly varies" from the 1973 charter — upon which the *Juco* doctrine rested — in that unlike the latter, the present constitution qualifies the term, "government-owned or controlled corporations," by the phrase, "with original charter;" hence, the clear implication is that the Civil Service no longer includes government-owned or controlled corporations without original charters, *i.e.*, those organized under the general corporation law.[23] NASECO further ruled that the *Juco* ruling should not apply retroactively, considering that prior to its

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judiciary acts, and procedural laws not inconsistent with this Constitution shall remain operative unless amended or repealed by the Supreme Court or the Congress." The petitioner implies that the term "judiciary acts" includes judicial decisions.

[20] 168 SCRA 124, reiterated in *Lumanta v. NLRC*, 170 SCRA 79.

[21] See cases cited in footnote 11, *supra*.

[22] 168 SCRA 122.

[23] At pp. 134-138.

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promulgation on January 17, 1985, this Court had expressly recognized the applicability of the Labor Code to government-owned or controlled corporations.[24]

Lumanta, et al. v. NLRC, et al.,[25] decided on February 8, 1989, made the same pronouncement: that Juco had been superseded by the 1987 Constitution for implicit in the language of Section 2(1), Article IX thereof, is the proposition that government-owned or controlled corporations without original charter do not fall under the Civil Service Law but under the Labor Code.

And in *PNOC-EDC v. Leogardo, etc. et al.*,[26] promulgated on July 5, 1989, this Court ruled that conformably with the apparent intendment of the NASECO case, *supra*, since the PNOC-EDC, a government-owned or controlled company had been incorporated under the general Corporation Law, its employees are subject to the provisions of the Labor Code.

It is thus clear that the *Juco* doctrine prevailing at the time of the effectivity of the fundamental charter in 1987 — *i.e.*, that government-owned or controlled corporations were part of the Civil Service and its employees subject to Civil Service laws and regulations,[27] regardless of the manner of the mode of their organization or incorporation — is no longer good law, being at "stark variance," to paraphrase *NASECO*, with the 1987 Constitution. In other words, and contrary to the petitioner's view, as of the effectivity of the 1987 Constitution, government-owned or controlled corporations without original charters, or, as Mr. Justice Cruz insists in his concurring opinion in *NASECO v. NLRC*,[28] a legislative, charter (*i.e.*, those organized under the Corporation Code), ceased to pertain to the Civil Service and its employees could no longer be considered as subject to Civil Service laws, rules or regulations.

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[24] At pp. 133-134.

[25] 170 SCRA 79.

[26] 175 SCRA 26.

[27] See cases cited in footnote 15, *supra*.

[28] 168 SCRA 124, 139-140.

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The basic question is whether an employee in a government-owned or controlled corporations without an original charter (and therefore not covered by Civil Service Law) nevertheless falls within the scope of Section 66 of the Omnibus Election Code, *viz*.:

"Section 66. *Candidates holding appointive office or position.* — Any person holding a public appointive office or position, including active members of the Armed Forces of the Philippines, and officers and *employees in government-owned or controlled corporations*, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy."

When the Congress of the Philippines reviewed the Omnibus Election Code of 1985, in connection with its deliberations on and subsequent enactment of related and repealing legislation — *i.e.*, Republic Acts Numbered *7166*: "An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes" (effective November 26, 1991), *6646*: "An Act Introducing Additional Reforms in the Electoral System and for Other Purposes" (effective January 5, 1988) and *6636*: "An Act Resetting the Local Elections, *etc*." (effective November 6, 1987), it was no doubt aware that in light of Section 2(1), Article IX of the 1987 Constitution: (a) government-owned or controlled corporations were of two (2) categories — those with original charters, and those organized under the general law — and (b) employees of these corporations were of two (2) kinds — those covered by the Civil Service Law, rules and regulations because employed in corporations having original charters, and those not subject to Civil Service Law but to the Labor Code because employed in said corporations organized under the general law, or the Corporation Code. Yet Congress made no effort to distinguish between these two classes of government-owned or controlled corporations or their employees in the Omnibus Election Code or subsequent related statutes, particularly as regards the rule that an any employee "*in government-owned or controlled corporations*, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy."[29]

[29] Italics supplied.

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Be this as it may, it seems obvious to the Court that a government-owned or controlled corporation does not lose its character as such because not possessed of an original charter but organized under the general law. If a corporation's capital stock is owned by the Government, or it is operated and managed by officers charged with the mission of fulfilling the public objectives for which it has been organized, it is a government-owned or controlled corporation even if organized under the Corporation Code and not under a special statute; and employees thereof, even if not covered by the Civil Service but by the Labor Code, are nonetheless "*employees in government-owned or controlled corporations*," and come within the letter of Section 66 of the Omnibus Election Code, declaring them "*ipso facto* resigned from *** office upon the filing of *** (their) certificate of candidacy."

What all this imports is that Section 66 of the Omnibus Election Code applies to officers and employees in government-owned or controlled corporations, even those organized under the general laws on incorporation and therefore not having an original or legislative charter, and even if they do not fall under the Civil Service Law but under the Labor Code. In other words, Section 66 constitutes just cause for termination of employment in addition to those set forth in the Labor Code, as amended.

The conclusions here reached make unnecessary discussion and resolution of the other issues raised in this case.

WHEREFORE, the petition is *GRANTED*; the decision of public respondent National Labor Relations Commission dated April 24, 1991 and its Resolution dated June 21, 1991 are *NULLIFIED AND SET ASIDE*; and the complaint of Manuel S. Pineda is *DISMISSED*. No costs.

SO ORDERED.

Padilla, Regalado, and *Nocon, JJ.*, concur.