

**PATROCINIO BUENTIPO, PETITIONER AND APPELLANT, VS.
COMMISSIONER, CIVIL SERVICE COMMISSION, RESPONDENT AND
APPELLEE.***G.R. No. L-19131. December 27, 1963*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d2cc64a1a01f/>

The above entitled case is an appeal direct to this Court from a decision of the Court of First Instance of Pangasinan, Hon. Amado S. Santiago, presiding, rendered in its Civil Case No. U-449, in an action for declaratory relief. The appellant filed his brief on January 3, 1962; the Solicitor General filed the appellee's on March 9, 1962. On August 8, 1962 appellant moved for an early adjudication of the case. On December 10, 1962 the case was referred to the Court of Appeals, because it was found that the appeal involves issues of fact (the appreciation of the value of conflicting evidence).

In the Court of Appeals and on January 7, 1963, counsel for appellant filed a declaration 'that appellant waives all issues of fact raised in petitioner's appeal and prayed that the case be returned to the Supreme Court for decision. No objection having been interposed the case was forwarded to this Court on February 22, 1963.

The original petition filed in the Court of First Instance of Pangasinan alleged that petitioner is a civil service eligible, having qualified in the corresponding civil service examination; that on November 27, 1956 he was appointed Chief of Police of Pozorrubio, Pangasinan but because of the filing of a criminal action against him, he was suspended from office; that when said case against him was dismissed, he informed the Municipal Mayor of Pozorrubio thereof and prayed for his reinstatement to his position of Chief of Police; that the Municipal Mayor refused to reinstate him for the reason that petitioner is not a civil service eligible; that desiring to prove his civil service eligibility he requested the Commissioner of Civil Service to certify to the fact of said eligibility but respondent informed him that petitioner's eligibility was cancelled because he had been dismissed as a patrolman in Bangued, Abra on August 16, 1941; that as early as November 1940 when he was patrolman in the City of Baguio he informed the Commissioner of Civil Service that it was not possible for him to have been dismissed and thereupon asked the Civil Service Commissioner to reconsider his dismissal and allow him to continue in the service, but the Commissioner replied that he had no authority to grant his request for reconsideration because such matter is one that should be brought to the proper authorities, that is the Office of the President; that petitioner's eligibility under the Civil Service Law could not be affected by a mere ruling contained in the index cards of the Civil Service Commission; that the Commissioner of Civil Service has no record of the administrative charge against him; that the index cards which were used by the Commissioner of Civil Service as references in passing on his eligibility are not true and correct because he was appointed third class patrolman in Baguio City on May 1, 1941; so he prayed that his rights as a civil service eligible be declared and that the respondent Commissioner of Civil Service be directed and cancel the entries in the civil service records, eliminating the alleged dismissal appearing therein for the reason that such dismissal never occurred nor existed.

The respondent Commissioner of Civil Service filed a motion to dismiss, but the court denied the motion; so respondent filed his answer alleging that according to the records of his office petitioner-appellant was dismissed from the service as policeman of Bangued, Abra for violation of regulations and gross misconduct and that since

his separation from the service was for cause he lost his civil service eligibility, for purposes of reinstatement. He denied that there is no record of the administrative case against the petitioner and alleged that he has records of the examination, service and docket cards, although no records of the proceedings in the administrative case remain because the same had been lost during the last war. He alleged that the decision in the administrative case and the entries or notations in the different cards in the Bureau in connection therewith are presumed to be regular, and that petitioner has failed to exhaust all possible remedies which in this case is the appeal to the President for relief from the dismissal for cause.

The decision of the court below, which states the facts, is in part as follows:

"The evidence discloses that in his decorate attempt to show the verity of his contention, the petitioner, together with his witnesses, merely and daringly ventured in saying in court under oath that he was never charged administratively during his incumbency as municipal policeman of Bangued, Abra and that he does not know or remember of any administrative case filed against him. The petitioner has not, however, shown by any iota of evidence of any improper or ulterior motives on the part of the officials concerned why and how come that the notations or entries on his examination card (Exh. 1), on his docket card (Exh. 2) and on his service cards (Exhs. 8, 3-B and 3-C), upon which he seeks a declaration of his rights thereunder and to have the said entries or notations thereon be cancelled and corrected, were made or caused to be made, all of which evidently reflect on, find refer to, his separation from the service on account of Administrative Case No. A-4830 (Exhs. 1, 2, 3, 3-B and 3-C) proffered against him when he was still a member of the police force of the municipality of Bangued, Abra. All of the entries in these cards which are of pre-war or wartime vintage were done in the ordinary course of business by those charged to do so, and, therefore, they are worthy of value and are reliable (Sec. 69 q) Rule 123 of the Rules of Court. Furthermore, the other entries or notations in Exhibits 2, 3 and 3-C, supra, show that other administrative charges against the petitioner had been filed and the same were dismissed or dropped (Exhs. 3 and 3-C, supra), which petitioner also denied having been filed against him, evidently serve to dispel doubts or uncertainty as to the veracity and truthfulness of his dismissal from the service, which fact of dismissal, moreover, is sufficiently supported by other records (Exh. 11, particularly page 2) on file in the Records Division, Executive Office, Malacañang.

"Insofar as the allegation of the petitioner to the effect that he has exhausted all administrative remedies is concerned, the same cannot be given any weight and credit for the reason that not only has the petitioner failed miserably to adduce any evidence in support thereto but also that the evidence of the respondent to the contrary conclusive disproves the same. * * * "

In this appeal, which has been limited by the petitioner to questions of law, petitioner contends that the examination, docket and service cards (Exhibits 1, 2, B, 3-B and 3-C) submitted by the respondent-appellee are mere index cards and are not service records and therefore are not competent nor conclusive proofs that his civil service eligibility has been cancelled after due notice and hearing. Exhibit 1 is a card containing the data about petitioner's civil service examination and is not questioned. But at the back thereof the following notations appear:

"Aug. 4, 1941 - Dismissed from the service as policeman of Bangued, Abra, effective on his last day of service with pay, for violation of regulations and gross misconduct. (Adm. Case No. A-4830)"

Exhibit 2 reads as follows:

"Name: Buentipo, Patrocinio Case No. A-4830 Position: Policeman Office: Bangued, Abra BS: Pat. Charges: Unbecoming conduct (fighting with Metodio Venus)

Remarks: 11-18-40 (L, 11-13) 112-11-25-40. Attach to A-4536 Gso 7/23. Decided 8/4/41 M 8/20/41. Dismissed, L, 1-19-50, to Mr. P. Buentipo, thru Sec. of Int. with the necessary information."

Exhibit 3 reads as follows:

"Buentipo, Patrocinio

Memo Card

(Bangued)

Policeman Abra

Dismissed for violation of regulations and gross misconduct effective on his last day of service with pay (Adm. Case No. A-4830, 8/4/41)

Exhibit 3-B reads in part as follows:

"Buentipo, Patrocinio

Mun. Policeman Bangued, Abra

Dismissal-Violation of regulations"

Exhibit 3-C is as follows:

"Buentipo Patrocinio

Policeman Bangued (Abra)

AC A-404G, neglect, of duty, gambling & improper conduct, case dropped, Dec. 11-1-40. Dismissed for cause (neglect of duty, viol, of regs. & gross misconduct) eff. his last day of service w/pay (AC A-4830, Dec. 8-4-41)"

The question raised by the appellant is one of law and is, that the above records are not admissible in evidence to prove that petitioner-appellant was really dismissed for misconduct and violation of regulations. An examination of the above exhibits clearly shows that Exhibits 1 and 2 are the, cards containing¹ the record of the examination of petitioner-appellant in the office of the Civil Service Commissioner. Exhibits 3, 3-B and 3-C are cards containing the service record of petitioner, and they show that he was dismissed for violation of regulations and gross misconduct. The third document is also a record of the service of the petitioner showing that he was also charged for neglect of duty, gambling and improper conduct but the case was dismissed on November 1, 1940, but that he was dismissed for cause (neglect of duty, violation of regulations and gross misconduct) on, August 4, 1941.

The documents above set forth are public records and contain entries made by the officers of the Civil Service Commission in their capacities as such and in the ordinary course of business, and therefore are included under the category of the following; rule on evidence:

"Sec. 51. Secondary evidence when original is lost or destroyed. -When the original writing has been lost or destroyed, upon proof of its execution and loss or destruction, its contents may be proved by a copy, or by a recital of its contents in some authentic document, or by the recollection of witnesses." (Rule 123, Rules of Court)

It is a fact that the records of the Civil Service Commission-about-the proceedings against petitioner Buentipo, as all records of the Commission prior to the war, had been destroyed during the last war. Assuming that the records of the proceedings in the administrative case and the original decision had been destroyed, the notation or gist of the decision contained in the card which was presented as Exhibit 3 is admissible as secondary evidence of the contents of the original under the aforementioned rule.

In view of the above legal provision and principles We must find that the court below committed no error in considering the above mentioned Exhibits 1, 2, 3, and 3-B and 3-C as competent evidence of the fact of the dismissal of the petitioner-appellant because of gross misconduct and violation of regulations, his doubtful denial to the contrary notwithstanding. In view of this resolution on the first question it is not necessary to consider the second question raised in the appeal.

Wherefore, the decision appealed from is hereby affirmed, with costs against petitioner-appellant. It is so ordered.

Bengzon, C.J, Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala and Makalintal, JJ., concur.

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