

RUSTAN D. AGUSTIN, PETITIONER, V. CIVIL SERVICE COMMISSION, RESPONDENT.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Review[1] filed under Rule 43 of the Rules of Court. The Petition assails the Decision[2] dated September 13, 2011 of public respondent Civil Service Commission (“public respondent CSC” for brevity) in CSC Decision No. 11-0512 (CSC Resolution No. 08-2167). The Petition also questions public respondent CSC’s Resolution[3] dated May 29, 2012, which denied petitioner’s eventual Motion for Reconsideration[4].

Among the salient facts are those as stated in public respondent CSC’s Resolution[5] of May 29, 2012, which are as follows:

“xxx Agustin (petitioner here) requested authentication of his Certificate of Eligibility (COE) for the April 9, 2000 Police Officer Examination (POE) with the Integrated Records Management Office (IRMO), [of] this Commission (public respondent here), on July 30, 2007. However, upon verification of the IRMO, there were marked differences in the facial features of the picture and signatures found in his Identification Cards presented and the Picture-Seat Plan (PSP) of the April 9, 2000 POE held at the Carlos Albert High School, Quezon City. As a standard operating procedure, Agustin (petitioner) was indorsed on even date to the Legal Concerns Unit (LCU) of the Examination, Recruitment, and Placement Office (ERPO), [of] this Commission (public respondent), for further investigation.

On August 2, 2007, the ERPO issued a Show Cause Order requiring Agustin (petitioner) to submit a sworn statement on why he should not be administratively charged for having employed fraud in acquiring the eligibility.

In his Affidavit dated October 3, 2007, Agustin (petitioner) denied any knowledge or participation in the alleged irregularity in connection with the Civil Service examination he allegedly took. Further, Agustin (petitioner) averred that the person appearing in the Picture-Seat Plan (PSP) is a total stranger to him.

After the conduct of the preliminary investigation, Agustin (petitioner) was formally charged in Civil Service Commission Resolution No. 08-2167 dated November 25, 2008 with Serious Dishonesty for his alleged involvement in an examination irregularity.”[6] (Emphasis Supplied)

On September 13, 2011, public respondent CSC rendered a Decision[7] finding petitioner Rustan D. Agustin (“petitioner” for brevity) liable for Serious Dishonesty. The dispositive portion of the Decision stated as follows:

“WHEREFORE, Rustan D. Agustin is hereby found GUILTY of Serious Dishonesty. Accordingly, the penalty of dismissal from the service is imposed upon him with all the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking any Civil Service examinations.”[8] (Emphasis was made in the original)

After petitioner’s Motion for Reconsideration[9] was denied by public respondent CSC in its assailed

Resolution[10] of May 29, 2012, petitioner filed the Petition at bench, praying “to nullify and or set aside the questioned decision of the Hon. CSC.”[11]

In his Petition, petitioner raised the following grounds:

“i. Whether or not the Decision of the Hon. CSC is supported by the evidence presented and admitted.

ii. Whether or not the Hon. CSC violated the sacrosanct right of the petitioner to due process of law, when the former anchored its decision not on the sole ultimate charge of the petitioner purportedly was guilty of fraud in securing his eligibility but on the alleged act of the petitioner of having attempted to benefit from the bogus examination;

iii. Whether or not the Hon. CSC could validly and fairly write a decision on a case, the trial of which was totally delegated to a hearing officer and the trial was, to accentuate, without the benefit of a stenographer and whether or not the decision is valid even if there was no showing that the Commissioners of the Hon CSC deliberated on it as a collegiate body.”[12]

To be begin with, contrary to petitioner's allegations in his assigned grounds i, ii and iii, petitioner was afforded due process of law.

Petitioner had argued as follows:

“xxx despite that there was only one hearing officer that heard the case, yet, it was the Hon. Commission en banc that rendered the decision of the case. It must be accentuated that the conduct and performances in the hearing in this case was merely recorded through and by a tape recorder of the hearing officer. There was no Stenographer and or its equivalent. We respectfully take issue on this because it rams head on the CONSTITUTIONAL RIGHT of the petitioner to due process of law, in that, it was the hearing officer who administered and conducted the formal hearing, including but not limited to the taking of the direct testimonies and cross examinations of the witnesses of the parties; he was the one who saw and was able to observe the deportment and demeanor of the witnesses while they were delivering their testimonies both in the direct and cross examinations. Thus, perforce, the vital observations he obtained regarding the deportment and demeanor of the witnesses cannot possibly be effectively passed on to the Hon. Commission. xxx

xxx xxx xxx

xxx THAT our assertion against violation of the constitutional right to due process of law of the petitioner has in fact manifested itself in the decision sought to be nullified, in that, the particular ruling of the Hon. CSC that accordingly, the petitioner merely presented evidence regarding his achievements as police officer, this, is not at all supported by the record of the case. There were numerous documents presented by the petitioner DURING HIS DIRECT TESTIMONY to prove 'the truthful sequence of events' of the controversy, which apparently, was merely brushed aside by the Hon. CSC. x x x

xxx xxx xxx

xxx the prosecution did not adduce any evidence to prove that there was connivance by and between the petitioner and the impersonator. xxx

xxx xxx xxx

xxx another specific ruling of the Hon. CSC which is relative to the Exhibit 'E' of the prosecution likewise appears to be an offshoot of the fact that the Hon. CSC did not personally hear the case and are without the corresponding stenographic notes. Thus, accordingly, it proves that, the petitioner desired to benefit from the bogus Civil Service eligibility by requesting for authentication for purposes of 'promotion'. There ought to be no inference for such matter, as that made, all because the prosecution did not formally offer Exhibit E for the purpose of proving that the reason for petitioner's request for authentication is promotion purposes, no there

was no such offer xxx. Verily it is not only highly unfair but violative of the constitutional right to due process of law of the petitioner, if an exhibit like the Exhibit E will be considered to prove that petitioner desired to benefit from the bogus examination result when it was not offered for that purpose xxx"[13] (Emphasis supplied)

Defeating petitioner's arguments however, is that petitioner can not claim to have been denied due process by public respondent CSC. This is because the essence of due process in administrative proceedings is the opportunity to explain one's side; and this had been accorded petitioner.

Records revealed that petitioner had actively participated in the proceedings before public respondent CSC. This, petitioner did by his filing of an Answer dated January 17, 2009, where he denied any involvement in any irregularity[14] of the examination, and by his filing of his Memorandum[15] on July 13, 2011.

All of these matters were as also found by public respondent CSC, to wit:

"After the conduct of the preliminary investigation, Agustin was formally charged in Civil Service Commission Resolution No. 08-2167 dated November 25, 2008 with Serious Dishonesty for his alleged involvement in an examination irregularity.

On January 19, 2009, Agustin submitted his Answer dated January 17, 2009. In his Answer, Agustin denied any involvement in the alleged examination irregularity and elected to have a formal investigation of the charge against him.

The formal hearings of the case were conducted on various dates from May 7, 2009 to May 10, 2011.

In an Order dated June 14, 2011, the parties were ordered to submit their respective Memorandum pursuant to Section 27 of the Uniform Rules on Administrative Cases in the Civil Service (URACCS).

On June 27, 2011, the Prosecution submitted its Memorandum. On the other hand, Agustin, through counsel, submitted his Memorandum on July 13, 2011."[16] (Emphasis supplied)

Further showing that petitioner was afforded due process was the fact that petitioner was able to seek a reconsideration of public respondent CSC's Decision dated September 13, 2011 by petitioner's filing of his Motion for Reconsideration[17] dated October 12, 2011.

A formal or trial-type hearing is not necessary, and technical rules of procedure are not strictly applied in administrative proceedings.[18] Due process in administrative proceedings is sufficiently met when there was reasonable opportunity to explain one's side or to seek a reconsideration of the ruling complained of, as was the situation here. That this is to be so is in accordance with the Supreme Court's pronouncement in *Hon. Waldo Q. Flores, in his capacity as Senior Deputy Executive Secretary in the Office of the President, et al. vs. Atty. Antonio F. Montemayor*, G.R. No. 170146, June 8, 2011, as follows:

"The essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of." (Emphasis Supplied)

Besides, as was revealed by the records, such as by the Picture-Seat Plan and the Identification Card of petitioner, petitioner was not the person who took the April 9, 2000 Police Officer Examination held at the Carlos Albert High School, Quezon City. In fact, petitioner admitted that he did not actually take the Police Officer Examination in his "Verified Answer"[19] dated June 9, 2009 and in his "Summation/Memorandum"[20] dated July 7, 2011. Petitioner alleged that he left his "Notice of Assignment of Seat" to a certain PO2 Valdez or Banez without supposedly giving his consent for the latter to take such Civil Service Examination in petitioner's behalf. All of these nevertheless constituted serious dishonesty. These matters were as also found by public respondent CSC, to wit:

“xxx In the case at bar, there are more than enough pieces of evidence to prove that Agustin was not the person who took the April 9, 2000 POE held at the Carlos Albert High School, Quezon City, but an impostor. This was substantially proven through close scrutiny and comparison of the subject PSP and Identification Card of Agustin. The facial feature of the picture in the Identification Card and the facial feature of the picture attached to the PSP are obviously different from each other, as well as the signatures appearing on it. These pieces of evidence are enough to prove his guilt in the light of the required quantum of evidence in administrative proceedings. In fact, Agustin admitted that he actually did not take the said Civil Service examination.

It is the contention of Agustin that although he admits that he actually did not take the April 19, 2000 POE, the examination irregularity was committed by a syndicate whom he did not connive with in order to take and pass the said Civil Service examination. The Commission is not persuaded. Worthy to note that in administrative offense of impersonation, there are always two persons involved. The offense can not prosper without the active participation of both persons xxx. The contention of Agustin that he just left his 'Notice of Assignment of Seat' to one PO2 Valdez or Banez without giving his consent to the latter to take the disputed Civil Service examination is a lame excuse and weak alibi which cannot be considered. xxx

xxx xxx xxx

Therefore, it is correct to conclude that Agustin is guilty of Serious Dishonesty on the ground that his means or ways in procuring the Certificate of Eligibility was made through impersonation, a blatant attack against the integrity of the Civil Service examinations. This act constitute the offense of Serious Dishonesty and is punishable by dismissal from the service.”[21] (Emphasis Supplied)

That the means or ways in procuring the Certificate of Eligibility through impersonation, as was done so by petitioner here, constituted dishonesty was as also pronounced by the Supreme Court in *Clarita J. Carbonel vs. Civil Service Commission*, G.R. No. 187689, September 7, 2010, as follows:

“An act which includes the procurement and/or use of fake/spurious civil service eligibility, the giving of assistance to ensure the commission or procurement of the same, cheating, collusion, impersonation, or any other anomalous act which amounts to any violation of the Civil Service examination, has been categorized as a grave offense of Dishonesty, Grave Misconduct or Conduct Prejudicial to the Best Interest of the Service.” (Emphasis supplied)

Petitioner's act of dishonesty in obtaining his Certificate of Eligibility in turn, constituted Serious Dishonesty which is punishable by dismissal from office. That this is the consequence is pursuant to the pronouncement of the Supreme Court in *Civil Service Commission vs. Zenaida T. Sta. Ana, Court Stenographer I, MCTC, etc.*, A.M. No. P-03-1696, April 30, 2003, as follows:

“After a thorough review of the matter, the Court finds that respondent is indeed guilty of dishonesty. An examination of respondent’s Personal Data Sheet reveals that her signature and picture on it are different from those in her CAT Application and Picture Seat Plan. xxx [T]he CSC officials who supervised the exam enjoyed the presumption of regularity in the performance of their official duty. xxx

Thus, the irregularity in respondent’s Personal Data Sheet, CAT Application and Picture Seat Plan cannot be attributed to error on the CSC’s part. It is clear that somebody else took the CSC exam for respondent Sta. Ana.

For respondent to claim that she herself took the CSC exam when in fact somebody else took it for her constitutes dishonesty. xxx

Under the Civil Service Rules, dishonesty is a grave offense punishable by dismissal which carries the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits [except leave credits pursuant to Rule 140, Section 11 (1)] and disqualification from reemployment in the government service.” (Emphasis

Supplied)

Indeed, the rule is settled that the findings of fact of an administrative agency, like public respondent CSC, are accorded due respect and even finality, and are binding upon the court[22] especially when supported by substantial evidence, as in this case.

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be proper under the circumstances, the following disposition is therefore made on these matters.

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Didican (Chairperson) and Paredes, JJ., concur.

[1] Rollo, pp. 3-22.

[2] Rollo, pp. 23-30.

[3] Rollo, pp. 50-56.

[4] Rollo, pp. 31-48.

[5] Rollo, pp. 50-56.

[6] Rollo, pp. 54-55.

[7] Rollo, pp. 23-30.

[8] Rollo, p. 30.

[9] Rollo, pp. 31-48.

[10] Rollo, pp. 50-56.

[11] Rollo, p. 20.

[12] Rollo, p. 7.

[13] Rollo, pp. 9-17.

[14] Rollo, p. 25, p. 55.

[15] Rollo, pp. 109-146.

[16] Rollo, p. 55.

[17] Rollo, pp. 31-48.

[18] Alberto Pat-og, Sr. vs. Civil Service Commission, G.R. No. 198755, June 5, 2013.

[19] Rollo, pp. 154-169.

[20] Rollo, pp. 109-146.

[21] Rollo, pp. 28-30.

[22] Ruble Rubenecia vs. Civil Service Commission, G.R. No. 115942, May 31, 1995.

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