

NONNETTE LEGASPI-VILLANUEVA, PETITIONER, VS. CIVIL SERVICE COMMISSION AND ROMEO A. JARAMILLA, RESPONDENTS.

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MACALINO, J:

Before this Court is a Petition for Review[1] under Rule 43 of the Rules of Court assailing the Decision[2] (“Assailed Decision”) of the Civil Service Commission (“CSC”) dated July 25, 2013 and the Resolution[3] dated November 11, 2013 (“Assailed Resolution”) finding petitioner guilty of Serious Dishonesty. The decretal portion of the Assailed Decision states:

“WHEREFORE, foregoing premises considered, the petition for review of Nonnette L. Villanueva, Chief, Labor and Employment Officer, Regional Center for Luzon, Philippine Overseas Employment Administration, San Fernando City, La Union, is hereby DISMISSED. Accordingly, the Decision Number 2011-072 dated July 13, 2011 of the Civil Service Commission Regional Office No. I, San Fernando City, La Union, finding her guilty of Less Serious Dishonesty and imposing upon her the penalty of nine (9) months suspension, and the Resolution No. D-2011-080 dated November 4, 2011, denying her motion for reconsideration, are MODIFIED to the extent that she is liable for Serious Dishonesty and imposed the penalty of dismissal from the service with all the accessory penalties of forfeiture of retirement benefits, perpetual disqualification from reemployment in the government service, cancellation of eligibility, and bar from taking future civil service examination.

Copies of this Decision shall be furnished the Integrated Records Management Office (IRMO), this Commission, Commission on Audit (COA) and Government Service Insurance System (GSIS).”[4]

Whereas, the dispositive portion of the Assailed Resolution reads:

“WHEREFORE, foregoing premises considered, the motion for reconsideration of Nonnette L. Villanueva, Chief, Labor and Employment Officer, Regional Center for Luzon, Philippine Overseas Employment Administration, San Fernando City, La Union, is hereby DENIED. Accordingly, the Civil Service Commission Decision No. 13-0772 dated July 25, 2013, finding her guilty of Serious Dishonesty and imposing upon her the penalty of dismissal from the service with all the accessory penalties of forfeiture of retirement benefits, perpetual disqualification from reemployment in the government service, cancellation of eligibility, and bar from taking future civil service examination, STANDS.”[5]

Antecedent Facts

Nonnette Villanueva (“petitioner”), in her capacity as Chief, Labor and Employment Officer, Regional Center for Luzon, POEA receives a monthly Representation and Transportation Allowance (RATA) of seven thousand pesos (PhP7,000.00) since April 2003.[6]

In June 2008, a government vehicle with plate number SFG 646[7] was issued to POEA-Regional Center for Luzon in the implementation of its multifarious programs.[8] The vehicle, a Tamaraw Revo GLX was received by petitioner and one Reynaldo E. Cabrera on June 12, 2008 as shown by the Acknowledgment Receipt[9] for the said vehicle.

On April 7, 2009, Romeo Jaramilla (“private respondent”), designated Administrative Officer, Regional Center

for Luzon, POEA, filed a complaint[10] before the Civil Service Commission Regional Office No. 1 (“CSC Regional Office No. 1”) against petitioner for violation of Section 28 of Republic Act No. 6688, otherwise known as the General Appropriations Act of 1989 and Dishonesty. He alleged that petitioner issued certifications[11] that she did not use any government vehicle from July 2008 to February 2009, in order to claim her RATA in full.[12]

On the contrary, it appears that from July 2008 to February 2009, petitioner used the vehicle assigned to their office as evidenced by the Driver's Trip Tickets[13] covering the said period. The disbursement vouchers[14] also showed that she received her RATA in full from July 2008 to February 2009.[15]

When asked to comment on the charges laid, petitioner explained[16] that she made use of the vehicle only for official purposes. She vehemently denied the allegations of private respondent, adding that the latter was getting back at her since she previously confronted him for his illegal and unlawful use of the said vehicle for his own personal travel to San Gabriel, La Union on September 28, 2008, which is a Sunday under the guise of an “Official Travel.”

After preliminary investigation, the CSC-Regional Office No. 1 issued a formal charge[17] on October 27, 2009 for Less Serious Dishonesty, committed as follows:

“1. That Nonnette L. Villanueva as Chief, Philippine Overseas Employment Administration, Regional Center for Luzon, San Fernando City, La Union, receives a monthly RATA of P7,000.00;

2. That Nonnette L. Villanueva used office vehicle with Plate No. SFG 646 as shown by the Driver's Trip Tickets dated July 16, 2008, August 5, 2008, September 29, 2008-October 1, 2008, October 3, 2008, December 3, 2008, December 5, 2008, January 15, 2009, and February 17, 2009;

3. That, however, in her Certification for Representation and Travel Allowance for the months July 2008 to February 2009, Nonnette L. Villanueva certified that she did not use any government vehicle, while in fact, she did.

The act of Nonnette L. Villanueva in certifying that she did not use any government vehicle, when she actually did and consequently collecting her Transportation Allowance in full, constitutes the offense of Dishonesty.

CONTRARY TO CIVIL SERVICE LAW AND RULES”

In her Answer[18] dated November 23, 2009, petitioner argues that she cannot be found guilty of Less Serious Dishonesty. She avers that the administrative offense being ascribed to her is not among the offenses listed in Section 22, Rule XIV of the Omnibus Rules Implementing Book V of E.O. 292. She submits that absent an offense denominated as less serious dishonesty under the civil service law, it follows that she cannot be hailed to answer the same, much less, can she be imposed any penalty. Petitioner admits that although there is a variance between the trip tickets vis-a-vis the certifications signed by her, such variance is not a concealment or distortion of truth as regards her official travels so as to place her within the contemplation of dishonesty.

After the conduct of formal investigation and the submission of the two opposing parties of their respective position papers, the CSC Regional Office No. 1 found petitioner guilty of Less Serious Dishonesty and imposed upon her the penalty of nine (9) months suspension.[19] Petitioner's subsequent motion for reconsideration[20] was denied in CSC Regional Office No. 1 Resolution No. D-2011-080.[21]

Thus, petitioner appealed[22] before the CSC which affirmed with modification the decision of the CSC Regional Office No. 1. The CSC found her guilty of Serious Dishonesty and imposed the penalty of dismissal from service with the accessory penalties of forfeiture of retirement benefits, perpetual disqualification from reemployment in the government service, cancellation of eligibility, and bar from taking future civil service examination. Herein Assailed Resolution[23] was issued on November 11, 2013 denying petitioner's Motion for Reconsideration.[24]

Hence, this petition where petitioner raises the following issues:

“A

WHETHER OR NOT THE CIVIL SERVICE COMMISSION MISAPPREHENDED THE FACTS OF THE CASE.

B

WHETHER OR NOT THE CIVIL SERVICE COMMISSION ERRED IN NOT CONSIDERING THE ISSUES RAISED BY PETITIONER.

C

WHETHER OR NOT THE CIVIL SERVICE COMMISSION'S MODIFICATION OF THE DECISION NO. 2011-072 OF THE CSC REGIONAL OFFICE NO. 1 FROM 'LESS SERIOUS DISHONESTY' TO 'SERIOUS DISHONESTY['] IS CONTRARY TO LAW AND EVIDENCE.”[25]

We see no reason to disturb the findings of the CSC that petitioner indeed issued the false RATA certifications and is, therefore, guilty of dishonesty.

Dishonesty is defined as the “(d)isposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.”[26]

With the issuance of Resolution No. 06-0538, otherwise known as the Rules on the Administrative Offense of Dishonesty, by the Civil Service Commission on April 4, 2006, the offense of Dishonesty is categorized into Serious Dishonesty, Less Serious Dishonesty, and Simple Dishonesty, depending on the attendant circumstances. Serious dishonesty is punishable by dismissal.[27] Less serious dishonesty is punishable by suspension for six months and one day to one year for the first offense and dismissal for the second offense.[28] Simple dishonesty is punishable by suspension of one month and one day to six months for the first offense, six months and one day to one year for the second offense, and dismissal for the third offense.[29]

Resolution No. 06-0538 recognizes that dishonesty is a grave offense punishable by dismissal from service.[30] It, however, also recognizes that “some acts of Dishonesty are not constitutive of an offense so grave as to warrant the imposition of the penalty of dismissal from the service.”[31]

Recognizing the attendant circumstances in the offense of dishonesty, the CSC issued parameters “in order to guide the disciplining authority in charging the proper offense” and to impose the proper penalty.[32]

Serious Dishonesty, Less Serious Dishonesty and Simple Dishonesty respectively, comprises the following offenses:

“Section 3. Serious Dishonesty. – The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Serious Dishonesty:

a. The dishonest act causes serious damage and grave prejudice to the government.

b. The respondent gravely abused his authority in order to commit the dishonest act.

c. Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption.

- d. The dishonest act exhibits moral depravity on the part of the respondent.
- e. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment..
- f. The dishonest act was committed several times or in various occasions
- g. The dishonest act involves a Civil Service examination, irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets.
- h. Other analogous circumstances. (Emphasis supplied)

Section 4. The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Less Serious Dishonesty:

- a. The dishonest act caused damage and prejudice to the government which is not so serious as to qualify under the immediately preceding classification.
- b. The respondent did not take advantage of his/her position in committing the dishonest act.
- c. Other analogous circumstances.[33]

Section 5. The presence of any of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Simple Dishonesty:

- a. The dishonest act did not cause damage or prejudice to the government.
- b. The dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent.
- c. In falsification of any official document, where the information falsified is not related to his/her employment.
- d. That the dishonest act did not result in any gain or benefit to the offender.
- e. Other analogous circumstances.”

In this case, the offense committed was serious dishonesty, not less serious dishonesty.

Petitioner argues that the Formal Charge of Less Serious Dishonesty remain unsubstantiated since the Driver's

Trip Tickets attached to private respondent's Affidavit/Complaint differ in dates to those that are mentioned and specified in the said Formal Charge. We believe, however, that this circumstance is of no moment considering that there are at least two circumstances present here that constitute the act of Serious Dishonesty, as follows:

“xxx

b. The respondent gravely abused his authority in order to commit the dishonest act.

xxx

f. The dishonest act was committed several times or in various occasions.

xxx”

Petitioner admitted that she indeed issued several “Certification of Representation and Transportation Allowance” declaring that she did not use any government vehicle for the months of July-December 2008 and January-February 2009 when in fact she did, as evidenced by the Driver's Trip Tickets. Clearly, petitioner gravely abused her authority when she certified several times that she did not use any government vehicles and consequently collected transportation allowance without deductions based on the Disbursement Vouchers for the said months. It is her act of knowingly submitting a false certification that constitute dishonesty. She knew that she would not be able to fully attest to the truthfulness of the information in the certificate.[34] Despite this, she still submitted the certificate in support of her collection of RATA.

Petitioner, however, maintains that said certifications were not necessary as the basis of deductions are the Driver's Trip Tickets. Nevertheless, it is on the basis of these certifications that she received her RATA without deductions as borne by evidence on record and despite her admission that she signs the Driver's Trip tickets everytime she uses the vehicle assigned to the POEA-Regional Center for Luzon. We note the observation of the CSC Regional Office No. 1 in its Decision dated July 13, 2011 that although the RATA Certifications were no longer required before payment of RATA, petitioner believed that the same was required that is why she signs it and the accountant attaches it as a supporting document to the voucher for the RATA of petitioner. The issuance of the certification alone containing untruthful statements constitute serious dishonesty.

Petitioner likewise asserts that she did not use the vehicle alone as she was with other employees of the POEA in going to their destination on official business.

The pertinent provision of law is the General Appropriations Act of 2008 and 2009, which provides in its General Provisions that:

“The transportation allowance herein authorized shall not be granted to officials who are assigned or presently use government motor transportation. Unless otherwise provided by law, no amount appropriated in this Act shall be used to pay representation or transportation allowances, whether commutable or reimbursable, which exceed the rates authorized under this section. Previous administrative authorizations inconsistent with the rates and conditions specified herein shall no longer be valid and payment shall not be allowed. xxx”
(Emphasis supplied)

It has been held that there is no qualification that the assigned vehicle should be for petitioner's exclusive use alone to disqualify her from receiving transportation allowance[35] contrary to the position of petitioner.

Finally, petitioner cannot now claim that her right to due process of law was violated when the CSC modified the charge from Less Serious Dishonesty to Serious Dishonesty.

Proceedings in administrative investigation are not strictly governed by the technical rules of evidence. They are summary in nature.[36] Due process of law in administrative cases is explained by the Supreme Court in the case

of Velez v. De Vera,[37]viz:

“Due process of law in administrative cases is not identical with 'judicial process' for a trial in court is not always essential to due process. While a day in court is a matter of right in judicial proceedings, it is otherwise in administrative proceedings since they rest upon different principles. The due process clause guarantees no particular form of procedure and its requirements are not technical. Thus, in certain proceedings of administrative character, the right to a notice or hearing are not essential to due process of law. The constitutional requirement of due process is met by a fair hearing before a regularly established administrative agency or tribunal. It is not essential that hearings be had before the making of a determination if thereafter, there is available trial and tribunal before which all objections and defenses to the making of such determination may be raised and considered. One adequate hearing is all that due process requires. . . .”

It is settled that "technical rules of procedure and evidence are not strictly applied to administrative proceedings. Thus, administrative due process cannot be fully equated with due process in its strict judicial sense." It is enough that the party is given the chance to be heard before the case against him is decided. Otherwise stated, in the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard.[38]

Petitioner was duly informed of the charge against her as the circumstances constituting serious dishonesty was duly alleged in the Formal Charge. As between the designation of the offense and allegations in the Formal Charge, it is the latter that must prevail. The offense of Serious Dishonesty was sufficiently established when it was alleged and proven that petitioner used the vehicles in various occasions for the period from July 2008 to February 2009 but at the same time collected in full her transportation allowance corresponding to the months mentioned.

WHEREFORE, in view of the foregoing, the Assailed Decision dated July 25, 2013 and the Assailed Resolution dated November 11, 2013 of the Civil Service Commission are hereby AFFIRMED.

SO ORDERED.

Castillo, M.P., Chairperson and Galapate-Laguilles, Z.T., JJ., concur.

[1] Rollo, pp. 17-36.

[2] Id. at pp. 40-45.

[3] Id. at pp. 41-45.

[4] Id. at p. 45.

[5] Id. at p. 59.

[6] Assailed Decision dated July 25, 2013, p. 4.

[7] Rollo, p. 124.

[8] Assailed Decision dated July 25, 2013, p. 4.

[9] Rollo, p. 124.

[10] Id. at pp. 60-61.

[11] Id. at pp. 140-147.

- [12] Assailed Decision dated July 25, 2013, p. 4.
- [13] Rollo, pp. 133-139.
- [14] Id. at pp. 125-132.
- [15] Assailed Decision dated July 25, 2013, p. 4.
- [16] Rollo, pp. 62-67.
- [17] Id. at pp. 68-69.
- [18] Id. at pp. 70-74.
- [19] CSC Regional Office No. 1 Decision dated December 5, 2011, Rollo, p. 157.
- [20] Rollo, pp. 104-110.
- [21] Id. at pp. 159-164.
- [22] Id. at pp. 165-180.
- [23] Id. at pp. 55-59.
- [24] Id. at pp. 184-204.
- [25] Id. at p. 26.
- [26] Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Sec. I & Angelita C. Esmerio, Clerk III, Office of the Division Clerk of Court, 502 Phil. 264, 277 (2005).
- [27] Light Rail Transit Authority v. Salvaña, G.R. No. 192074, June 10, 2014 citing Civil Service Commission, Resolution No. 06-0538 (2006), Sec. 2(a).
- [28] Light Rail Transit Authority v. Salvaña, G.R. No. 192074, June 10, 2014 citing Civil Service Commission, Resolution No. 06-0538 (2006), Sec. 2(b).
- [29] Light Rail Transit Authority v. Salvaña, G.R. No. 192074, June 10, 2014 citing Civil Service Commission, Resolution No. 06-0538 (2006), Sec. 2(c).
- [30] Light Rail Transit Authority v. Salvaña, G.R. No. 192074, June 10, 2014 citing Civil Service Commission, Resolution No. 06-0538 (2006), Third Whereas Clause.
- [31] Light Rail Transit Authority v. Salvaña, G.R. No. 192074, June 10, 2014 citing Civil Service Commission, Resolution No. 06-0538 (2006), Fourth Whereas Clause.
- [32] Light Rail Transit Authority v. Salvaña, G.R. No. 192074, June 10, 2014 citing Civil Service Commission, Resolution No. 06-0538 (2006).
- [33] A.M. No. P-12-3093. March 26, 2014. (Formerly OCA I.P.I. No. 12-3845-P) Anonymous Complaint Against Otelia Lyn G. Maceda, Court Interpreter, Municipal Trial Court, Palapag, Northern Samar citing Section 4 of CSC Resolution No. 06-0538.
- [34] See Light Rail Transit Authority v. Salvaña, G.R. No. 192074, June 10, 2014.
- [35] See Erece v. Macalingay, at al., G.R. No. 166809, April 22, 2008.
- [36] A.M. No. P-12-3093. March 26, 2014. (Formerly OCA I.P.I. No. 12-3845-P) Anonymous Complaint Against

Otelia Lyn G. Maceda, Court Interpreter, Municipal Trial Court, Palapag, Northern Samar citing Section 4 of CSC Resolution No. 06-0538 citing Burgos v. Aquino, 319 Phil. 622, 628 (1995).

[37] A.C. No. 6697, July 25, 2006, 496 SCRA 345.

[38] A.M. No. P-12-3093. March 26, 2014. (Formerly OCA I.P.I. No. 12-3845-P) Anonymous Complaint Against Otelia Lyn G. Maceda, Court Interpreter, Municipal Trial Court, Palapag, Northern Samar.

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