

MARTIN S. EMIN, PETITIONER, VS. CHAIRMAN CORAZON ALMA G. DE LEON, COMMISSIONERS THELMA P. GAMINDE AND RAMON P. ERENETA, JR., OF THE CIVIL SERVICE COMMISSION, RESPONDENTS.

G.R. No. 139794. February 27, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a petition to review the decision dated October 30, 1998 of the Court of Appeals in CA-G.R. S.P. No. 46549, affirming Civil Service Commission Resolution Nos. 96-3342 and 97-4049 finding petitioner Martin Emin, guilty of dishonesty, grave misconduct and conduct prejudicial to the best interest of the service, and dismissing him from the service as Non-Formal Education (NFE) Supervisor of the Department of Education, Culture and Sports (DECS), Kidapawan, Cotabato.

The facts are as follows:

Sometime in the year 1991, appointment papers for a change of status from provisional to permanent under Republic Act No. 6850 of teachers were submitted to the Civil Service Field Office-Cotabato at Amas, Kidapawan, Cotabato. Attached to these appointment papers were photocopies of certificates of eligibility of the teachers.

Director Gantungan U. Kamed noticed that the certificates of eligibility were of doubtful authenticity. He called the Head Civil Service Field Officer. While the certificates seemed to be authentic, the signature of Civil Service Commission Director Elmer R. Bartolata and the initials of the processors of said certificates were clearly forgeries. Director Kamed initially forwarded five (5) appointments to Civil Service Regional Office No. XII for verification of their R.A. 6850 eligibilities and for appropriate action through an indorsement letter dated September 26, 1991. The appointment papers of the same nature subsequently submitted to the Field Office were likewise forwarded to the CSRO No. XII.

Upon verification of the records of CSRO No. XII, it was found that said applications for civil service eligibility under R.A. 6850 were disapproved. However, the certificates of eligibility they submitted were genuine as their control number belonged to the batch issued to CSRO No. XII by the CSC Central Office. But the records showed that these certificates were never issued to any one.

Two separate investigations^[1] were conducted by Director Cesar P. Buenaflor of Regional Office No. 12 of the Civil Service Commission in Cotabato City: (1) on how the R.A. 6850 certificates were issued/released from the Office, and (2) on how the teachers got said certificates. The teachers concerned were asked to report to the Office and bring the original copies of their certificates of eligibility. On several dates, the teachers appeared and gave their sworn statements pointing to petitioner as the person who gave them the R.A. 6850 certificates of eligibility they had attached to their appointments for a fee. Upon finding a prima facie case, petitioner was formally charged with dishonesty, grave misconduct and conduct prejudicial to the best interest of the service.^[2]

In his sworn letter dated April 8, 1992 to the CSC Regional Director, petitioner denied the accusation.[3] He filed a motion to dismiss, dated June 5, 1992,[4] but the motion was denied on July 8, 1992.

During the hearing, the six teachers cited in the charge sheet, namely: Eufrocina Sicam, Ma. Elisa Sarce, Lilia Millondaga, Merla Entiero, Lourdes Limbaga and Florida P. Alforjas were presented as witnesses for the prosecution. Felixberta Ocho and Araceli G. Delgado who were also holders of fake certificates of eligibility were likewise presented as witnesses.

Alforjas and Delgado identified petitioner and a certain Teddy Cruz as the persons who facilitated their applications for R.A. 6850 eligibility. The other witnesses corroborated Alforjas' and Delgado's testimonies. They all identified petitioner as the person who helped them obtain the fake certificates of eligibility.

On June 29, 1994, Director Buenaflor submitted a report[5] to the Chairman of the Civil Service Commission. The CSC found that there was sufficient evidence to warrant the conviction of petitioner. On May 14, 1996, the Civil Service Commission in its resolution decreed:

WHEREFORE, Martin S. Emin is hereby found guilty of Grave Misconduct. Accordingly, the penalty of dismissal from the service including all its accessory penalties is imposed upon him.[6]

Not satisfied with the abovesited resolution, the petitioner filed a motion for reconsideration,[7] but it was denied.

On January 16, 1998, petitioner elevated the case to the Court of Appeals, but it was dismissed for failure to comply with Section 5, Rule 43 of the 1997 Rules of Civil Procedure.[8]

However, the CA granted petitioner's motion for reconsideration[9] and time to amend his petition.[10] In his amended petition, he raised before the CA the twin issues of (1) whether the CSC had original jurisdiction over the administrative cases against the public school teachers; and (2) whether petitioner was accorded due process.[11]

Finding the petition unmeritorious, the appellate court ruled on the appeal, thus:

WHEREFORE, premises considered, the petition (appeal) is DISMISSED, hereby affirming public respondents' assailed appealed resolutions (Resolution No. 963342, dated May 14, 1996; and Resolution No. 974049, dated October 14, 1997).

SO ORDERED.[12]

Petitioner is now before us raising the following issues:

- WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT THE CIVIL SERVICE COMMISSION HAS ORIGINAL JURISDICTION OVER ADMINISTRATIVE CASES AGAINST PUBLIC SCHOOL TEACHERS.
- WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE PETITIONER WAS NOT ACCORDED HIS RIGHT TO DUE PROCESS.
- WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT THERE WAS SUFFICIENT GROUND TO DISMISS THE PETITIONER FROM SERVICE.
- WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT ADMITTING THE NEWLY DISCOVERED EVIDENCE.[13]

Notwithstanding petitioner's formulation, we find that the issues to be resolved are: (1) whether or not the CSC has original jurisdiction over the present case; and (2) whether or not petitioner was accorded due process.

Petitioner avers that as a teacher, original jurisdiction over the administrative case against him is lodged with a committee and not with the CSC, as provided for by Republic Act 4670 otherwise known as the “Magna Carta for Public School Teacher,” specifically, Section 9 thereof, which provides:

Sec. 9. Administrative Charges.- Administrative charges against a teacher shall be heard initially by a committee composed of the corresponding School Superintendent of the Division or a duly authorized representative who should at least have the rank of a division supervisor, where the teacher belongs, as chairman, a representative of the local, or, in its absence, any existing provincial or national teacher’s organization and a supervisor of the Division, the last two to be designated by the Director of Public Schools within thirty days from the termination of the hearings: Provided, however, That where the school superintendent is the complainant or an interested party, all the members of the committee shall be appointed by the Secretary of Education.

For public respondent CSC, the Office of the Solicitor General maintains that original jurisdiction over the present case is with the CSC pursuant to the Constitution and P.D. 807 (Civil Service Law) which provide that the civil service embraces every branch, agency, subdivision, and instrumentality of the government, including government-owned or controlled corporations whether performing governmental or proprietary function.

We find merit in petitioner’s contention that R.A. 4670 is good law and is applicable to this case. R.A. 4670 has not been expressly repealed by the general law P.D. 807, nor has R.A. 4670 been shown to be inconsistent with the presidential decree.[14] Section 2 thereof specified those who are covered by the term “teacher” as follows:

SEC. 2. Title – Definition. - This Act shall be known as the “Magna Carta for Public School Teachers” and shall apply to all public school teachers except those in the professorial staff of state colleges and universities.

As used in this Act, the term “teacher” shall mean all persons engaged in classroom teaching, in any level of instruction, on full-time basis, including guidance counselors, school librarians, industrial arts or vocational instructors, and all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the Government or its political subdivisions; but shall not include school nurses, school physicians, school dentists, and other school employees.

Petitioner is the Non-Formal Education Supervisor of the DECS, in Kidapawan, Cotabato, in-charge of the out-of-school programs.[15] The 1993 Bureau of Non-formal Education Manual[16] outlines the functions of a NFE Division Supervisor which include, “...(5) implementation of externally assisted NFE programs and projects; (6) monitoring and evaluation of NFE programs and projects... (8) supervision of the implementation of NFE programs/projects at the grassroots level.”[17] Clearly, petitioner falls under the category of “all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the government or its political subdivisions.”

Under Section 2 of R.A. 4670, the exclusions in the coverage of the term “teachers” are limited to: (1) public school teachers in the professorial staff of state colleges and universities; and (2) school nurses, school physicians, school dentists, and other school employees under the category of “medical and dental personnel”. Under the principle of ejusdem generis, general words following an enumeration of persons or things, by words of a particular and specific meaning, are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned.[18] Too, the enumeration of persons excluded from the coverage of the term “teachers” is restricted, limited and exclusive to the two groups as abovementioned. Where the terms are expressly limited to certain matters, it may not by interpretation or construction be extended to other matters.[19] *Exclusio unius est inclusio alterius*. Had Congress intended to exclude an NFE Division Supervisor from the coverage of R.A. 4670, it could have easily done so by clear and concise language.

As petitioner is covered by R.A. 4670, it is the Investigating Committee that should have investigated his case conformably with Section 9 of R.A. 4670, now being implemented by Section 2, Chapter VII of DECS Order No. 33, S. 1999, otherwise known as the DECS Rules of Procedure.[20]

However, at this late hour, the proceedings conducted by the public respondent CSC can no longer be nullified on procedural grounds. Under the principle of estoppel by laches, petitioner is now barred from impugning the CSC's jurisdiction over his case.

But we must stress that nothing herein should be deemed as overriding the provision in the Magna Carta for Teachers on the jurisdiction of the Committee to investigate public school teachers as such, and the observance of due process in administrative proceedings involving them, nor modifying prior decided cases of teachers on the observance of the said Magna Carta such as *Fabella vs. Court of Appeals*.[21]

Here what is crucial, in our view, is that the Civil Service Commission had afforded petitioner sufficient opportunity to be heard and defend himself against charges of participation in faking civil service eligibilities of certain teachers for a fee. Not only did he answer the charges before the CSC Regional Office but he participated in the hearings of the charges against him to the extent that we are left with no doubt that his participation in its proceedings was willful and voluntary.

As held previously, participation by parties in the administrative proceedings without raising any objection thereto bars them from raising any jurisdictional infirmity after an adverse decision is rendered against them.[22] In the case at bar, petitioner raised the issue of lack of jurisdiction for the first time in his amended petition for review[23] before the CA. He did not raise this matter in his Motion to Dismiss[24] filed before the CSC Regional Office. Notably, in his Counter-Affidavit, he himself invoked the jurisdiction of the Commission by stating that he was "open to further investigation by the CSC to bring light to the matter"[25] and by further praying for "any remedy or judgment which under the premises are just and equitable." [26] It is an undesirable practice of a party participating in the proceedings, submitting his case for decision, and then accepting the judgment only if favorable, but attacking it for lack of jurisdiction, when adverse.[27]

Equally unmeritorious is petitioner's contention that he was denied due process. He avers that he was not allowed cross-examination. It is well to remember that in administrative proceedings, technical rules of procedure and evidence are not strictly applied and administrative due process cannot be fully equated with due process in its strict judicial sense.[28]

Nothing on record shows he asked for cross-examination as most of the submissions were written. In our view, petitioner cannot argue that he has been deprived of due process merely because no cross-examination took place. The rule is well established that due process is satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy or given opportunity to move for a reconsideration of the action or ruling complained of.[29] In the present case, the record clearly shows that petitioner not only filed his Counter-Affidavit[30] during the preliminary investigation, and later his Motion to Dismiss.[31] He also filed a Motion for Reconsideration[32] of the October 19, 1993 Order of the Commission. The essence of due process in administrative proceedings is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.[33]

Neither is there merit in petitioner's assertion that he was denied the right to due process when the CSC Regional Office, according to him, acted as investigator, prosecutor, judge and executioner. He laments that Director Buenaflor who formally filed the charge nominally was also the hearing officer, and that prosecutor Atty. Anabelle Rosell was also the one who submitted the recommendation to the CSC for the dismissal of petitioner. Recall, however, that it was ultimately the Civil Service Chairman who promulgated the decision. The report

submitted by Atty. Rosell based on the hearing where Director Buenaflor sat as hearing officer, was merely recommendatory in character to the Civil Service Commission itself. Such procedure is not unusual in an administrative proceeding.

Petitioner claims that there was no valid case to dismiss him as Director Elmer Bartolata was not presented to ascertain the alleged forged signature contained in the questioned certificates of eligibility. The Court of Appeals and the Civil Service Commission made a finding on this fact of forgery. It is not this Court's function now to evaluate factual questions all over again. This is particularly true in this case, where the Commission and the appellate court agree on the facts.[34]

Lastly, petitioner contends that the affidavit of Teodorico Cruz[35] should have been admitted as newly discovered evidence. Petitioner raised this issue for the first time on appeal, when he filed his Motion for New Trial and to Admit Newly Discovered Evidence before the CA. For a particular piece of evidence to be regarded as "newly discovered" for purposes of a new trial, it is essential that the offering party had exercised reasonable diligence in seeking to locate such evidence before or during trial but had nonetheless failed to secure it. The OSG[36] observed that despite the knowledge of the importance of Mr. Cruz's testimony on the matter, petitioner did not ask for a subpoena duces tecum to obtain said "newly discovered evidence." Neither did petitioner, on his own, secure said affidavit or testimony during the proceedings to support his cause. We note too, that the said affidavit attempts to exonerate the petitioner and Cruz and points to someone else ("Jing") as the culprit, leaving the impression that the idea of the affidavit was a mere afterthought, a last ditch effort to clear petitioner's name. Thus, we are not persuaded by petitioner's claim of newly discovered evidence, for it appears to us as a dilatory contrivance for petitioner's benefit.

WHEREFORE, there being no reversible error committed by the Court of Appeals and the respondent officials of the CSC, the instant petition is hereby DENIED. The Decision dated October 30, 1998 of the Court of Appeals in CA-G.R. S.P. No. 46549 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Records, pp. 326-410.

[2] Id. at 326-327.

[3] Id. at 325.

[4] Id. at 324.

[5] Id. at 240-244.

[6] Id. at 236.

[7] Id. at 142-147.

[8] CA Rollo, p. 41.

[9] Id. at 49.

[10] Id. at 65.

[11] Id. at 69.

[12] Id. at 252.

[13] Rollo, p. 33.

[14] *Fabella vs. Court of Appeals*, G.R. No. 110379, 282 SCRA 256, 270 (1997).

[15] Records, p. 76.

[16] Title VI, Chapter 6 of EO 292, otherwise known as the Administrative Code of 1987, defines the functions of the Bureau of Non-formal Education as follows:

SEC. 16. Bureau of Non-formal Education. – The Bureau of Non-Formal Education shall have the following functions:

(1)

Serve as a means of meeting the learning needs of those unable to avail themselves of the educational services and programs of formal education;

(2)

Coordinate with various agencies in providing opportunities for the acquisition of skills necessary to enhance and ensure continuing employability, efficiency, productivity, and competitiveness in the labor market; and

(3)

Serve as a means for expanding access to educational opportunities to citizens of varied interests, demographic characteristics and socio-economic origin of status.

[17] NFE Vision and Mission at the Threshold of the 21st century, DECS Manual, p. 28, June 1993.

[18] *PNOC Shipping and Transport Corporation vs. CA, et al.*, G.R. No. 107518, 297 SCRA 402, 422 (1998).

[19] *IBP vs. Zamora*, G.R. No. 141284, 338 SCRA 81, 109 (2000).

[20] Section 2. Investigating Committee. - The Formal Investigation shall commence after the investigating Committee has been duly constituted. The Investigating Committee shall be composed as follows, in accordance with Rep. Act. No. 4670, otherwise known as the Magna Carta of Public School Teachers:

- When the respondent is an elementary or secondary school teacher, head teacher, principal, district supervisor/chair/coordinator of Education Supervisor 1-

(1) The schools division superintendent or his duly authorized representative, as chairperson;

(2) The duly authorized representative of the school, district, or division teacher's organization, as member; and

(3) The division supervisor for elementary or secondary education where the respondent belongs, as member

- When the respondent is an Assistant Schools Division Superintendent, Schools Division Superintendent or Education Supervisor II-

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- When the respondent is a DECS employee or official not enumerated above – The Disciplining Authority shall have full discretion as to the composition of the Investigating Committee.

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[21] G.R. No. 110379, 282 SCRA 256, 268 (1997).

[22] Centeno vs. Centeno, G.R. No. 140825, 343 SCRA 153, 159-160 (2000), citing Fortich vs. Corona, G.R. No. 131457, 298 SCRA 678, 707 (1998).

[23] Rollo, pp. 66-67.

[24] Records, p. 199.

[25] Id. at 210.

[26] Ibid.

[27] Quintanilla vs. Court of Appeals, G.R. No. 101747, 279 SCRA 397, 407 (1997).

[28] Espinosa vs. Office of the Ombudsman, G.R. No. 135775, 343 SCRA 744, 753 (2000); Roxas, et al. vs. Vasquez, et al., G.R. No. 114944, June 19, 2001, p. 9.

[29] Factoran, Jr. vs. Court of Appeals, G.R. No. 93540, 320 SCRA 530, 545 (1999).

[30] Records, pp. 207-210.

[31] Id. at 199.

[32] Id. at 142-147.

[33] Pizza Hut/Progressive Development Corporation vs. NLRC, G.R. No. 117059, 252 SCRA 531, 535 (1996).

[34] Fabella vs. Court of Appeals, G.R. No. 110379, 282 SCRA 256, 273 (1997), citing South Sea Surety and Insurance Co., Inc. vs. Court of Appeals, G.R. No. 102253, 244 SCRA 744, 749 (1995).

[35] CA Rollo, pp. 265-266.

[36] Id. at 286.

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