

EUGENIO R. AVENIDO, Petitioner, vs. CIVIL SERVICE COMMISSION, Respondent.*G.R. No. 177666. April 30, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-177666/>**PER CURIAM:**

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the Decision dated 18 January 2007, rendered by the Court of Appeals in C.A. G.R. SP No. 93210,[1] affirming the Resolution[2] dated 6 August 2004, issued by the Civil Service Commission (CSC), finding petitioner Eugenio Avenido guilty of Dishonesty and Conduct Prejudicial to the Best Interest of the Service, which warranted his dismissal.

While petitioner was employed as an Administrative Officer at the National Telecommunications Commission (NTC), he was approached by a town mate, Pablo Daz (Daz), who was a representative of Animus International Inc. (Animus International), a corporation engaged in the business of importing mobile telephone units and Subscriber Identity Module (SIM) cards. During this visit from Daz, petitioner personally prepared an Order of Payment for a Permit to Import Cellular Phones in favor of Animus International. Thereafter, petitioner accompanied Daz to the office of Marcelo M. Bunag, Jr. (Bunag), the acting assessor and processor of the Amateur, Dealer and Manufacturer Service of the NTC licensing unit. Since petitioner formerly served as an assessor, and is now Bunag's superior, Bunag relied on petitioner's judgment and approved the Order of Payment prepared by the petitioner, which by itself, appeared regular. Petitioner then personally delivered the Order of Payment, together with the payment for the assessed fees of Two Hundred Forty Pesos (P240.00), to the Cashier. Ivy Daban (Daban), Clerk I and acting cashier, received the payment and issued an Official Receipt for the Permit to Import Cellular Phones.[3]

In a facsimile letter dated 21 February 2001, Fernandino A. Tuazon, the Officer-in-Charge of the Customs Intelligence and Investigation Service of the Bureau of Customs, sought verification from Onofre de Galindo (Galindo), the Chief of Equipment Standards Division, NTC-NCR, whether Animus International was authorized to import Motorola cellular phones in commercial qualities. Attached to the said letter was a copy of the Permit to Import, which appears to have been signed by petitioner with the title ECE, Attorney III. After examining the records of the NTC-NCR, Galindo discovered that Animus International was not an accredited distributor's supplier of Motorola Philippines.[4]

Further investigation conducted by Arnold P. Barcelona (Barcelona), Engineer V and Chief of the Enforcement & Monitoring Section of the NTC, showed that Animus International did not even file any application for a Permit to Import, an important requisite before the preparation of an Order of Payment and the issuance of a Permit to Import. Animus International, however, was able to import approximately P40,000,000.00 worth of cellular phone SIM cards. Bunag and Barcelona confronted the petitioner regarding the irregularity of the issuance of the Permit to Import in favor of Animus International. Thereafter, Bunag filed an administrative complaint against petitioner.[5]

On 6 April 2001, the NTC issued a Show Cause Order,[6] wherein the above-mentioned incidents were recounted in detail, and petitioner was formally charged with Dishonesty, Usurpation of Official Function and Falsification

of Public Document.

During the formal investigation conducted by the NTC, petitioner was given an opportunity to present his defense. He submitted a certification by the National Bureau of Investigation (NBI) stating that the signature appearing in the Permit to Import was not his. Petitioner averred that the signature was forged by his town mate, Daz. He only admitted to preparing the Order of Payment for the Permit to Import and personally delivered the payment therefor to the Cashier; and he did so "merely to accommodate one of his townsman(s), an act of hospitality, which is very much characteristic of the Filipino culture." [7]

In its Decision dated 23 May 2003, the NTC found petitioner liable for Conduct Grossly Prejudicial to the Best Interest of the Service. The NTC gave credence to the testimonies of Bunag and Daban. Bunag testified that petitioner prepared the Order of Payment in the name of Animus International by making the assessment of the required fees. Daban testified that, as cashier, she received from petitioner the assessment fee of P240.00. The NTC underscored the following irregularities in petitioner's acts: (1) the preparation of an Order of Payment without having been presented with an application for Permit to Import and other requirements, and (2) personally delivering the Order of Payment to the Cashier, instead of turning over the documents to Bunag, who should deliver the same to the Cashier. By acting in such manner, petitioner evinced a special interest in the issuance of a Permit to Import in favor of Animus International and a lack of concern for the proper procedure imposed by the government in the issuance of permits and licenses. The NTC also took note of the unusual fact that petitioner did not take any legal action against Daz who had falsified his signature, and caused grave damage to his reputation. The NTC suspended petitioner from service for ten (10) months.[8] The dispositive part of the Decision stated that:

WHEREFORE, in light of all the foregoing, the Commission finds respondent EUGENIO R. AVENIDO guilty of the lighter offense of "conduct prejudicial to the best interest of service" and hereby imposes upon him the penalty, for the 1st Offense, of Suspension for Ten (10) months, effective upon notice, during which period respondent shall not be entitled to all money benefits including leave credits, with a warning that a repetition of the same or similar offense shall be dealt with more severely.[9]

On appeal, the CSC affirmed the findings of the NTC in its Decision dated 23 May 2003, with modification. In its Resolution dated 6 August 2004, the CSC found petitioner guilty of Dishonesty, in addition to Conduct Grossly Prejudicial to the Best Interest of the Service, which merits the penalty of dismissal. The CSC declared that Dishonesty involves the distortion of truth. By preparing the Order of Payment and delivering the same to the Cashier, petitioner made it appear that Animus International complied with an application for Permit to Import and other requirements; thus, petitioner acted with Dishonesty. Moreover, petitioner's gross disregard for the established procedures in the issuance of a Permit to Import is unquestionably Conduct Prejudicial to the Best Interest of the Service. Lastly, the CSC pronounced that the NTC observed due process for although the Show Cause Order failed to designate any of the offenses as Conduct Prejudicial to the Best Interest of the Service, the acts described therein constituted the said offense.[10] The dispositive part of the CSC Resolution reads:[11]

WHEREFORE, the appeal of Eugenio R. Avenido is hereby DISMISSED. However, the Decision of the National Telecommunications Company dated May 23, 2003 is hereby modified to the effect that Avenido is additionally found liable for Dishonesty. Thus, Eugenio R. Avenido is hereby meted out the penalty of dismissal from the service with the accessory penalties of cancellation of his Civil Service Eligibility, forfeiture of retirement benefits and perpetual disqualification from reemployment in the government service.

In the Decision dated 18 January 2007 in CA G.R. SP No. 93210, the Court of Appeals affirmed the 6 August 2004 Resolution of the CSC. It sustained the findings of the CSC that the Show Cause Order sufficiently described the irregularities committed by the petitioner, even if one of the offenses for which petitioner was found

guilty, Conduct Prejudicial to the Best Interest of the Service, was not specified therein. Furthermore, the appellate court decreed that substantial evidence supports the finding that petitioner is guilty of both Dishonesty and Conduct Prejudicial to the Best Interest of the Service.[12]

Petitioner filed a Motion for Reconsideration of the afore-mentioned Decision of the Court of Appeals, which was denied in a Resolution dated 24 April 2007.[13]

Hence, in the present Petition, the following issues are being raised:[14]

I

WHETHER OR NOT THE PETITIONER WAS AFFORDED AMPLE DUE PROCESS OF LAW;

II

WHETHER OR NOT SUBSTANTIAL EVIDENCE OBTAINS TO SUPPORT CHARGES AGAINST THE PETITIONER.

The petition is bereft of merit.

Petitioner claims that he was deprived of due process of law when the NTC, thru a Show Cause Order, charged him with Dishonesty, Falsification of Public Documents and Usurpation of Authority, and then found him guilty of Conduct Prejudicial to the Best Interest of the Service, an offense which he avers is so different from the offenses with which he was earlier charged.[15]

This Court has already ruled in *Dadubo v. Civil Service Commission*, that the designation of the offense or offenses with which a person is charged in an administrative case is not controlling and one may be found guilty of another offense, where the substance of the allegations and evidence presented sufficiently proves one's guilt:

It is true that the petitioner was formally charged with conduct prejudicial to the best interest of the bank and not specifically with embezzlement. Nevertheless, the allegations and the evidence presented sufficiently proved her guilt of embezzlement of bank funds, which is unquestionably prejudicial to the best interest of the bank.

The charge against the respondent in an administrative case need not be drafted with the precision of an information in a criminal prosecution. It is sufficient that he is apprised of the substance of the charge against him; what is controlling is the allegation of the acts complained of, not the designation of the offense.[16]

Due process mandates that a party be afforded reasonable opportunity to be heard and to submit any evidence he may have in support of his defense. In administrative proceedings such as the one at bench, due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of.[17] In the instant case, petitioner was furnished a copy of the charges against him and he was able to file an answer and present evidence in his defense. Consequently, a decision was rendered by the NTC finding him guilty of an offense which was not specifically designated in the Show Cause Order, but was still based on acts that were alleged therein, specifically, making an assessment for the Order of Payment for an applicant who had not even complied with the requirements; and personally delivering the Order of Payment to the Cashier, instead of turning over the documents to the authorized officer, who should deliver the same to the Cashier. Clearly, therefore, due process was observed in this case.

Acts may constitute Conduct Prejudicial to the Best Interest of the Service as long as they tarnish the image and integrity of his/her public office. The Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713) enunciates, inter alia, the State policy of promoting a high standard of ethics and utmost responsibility in the public service. Section 4(c) of the Code commands that "[public officials and employees]

shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest." [18] By showing undue interest in securing for Animus International a Permit to Import, even if it had not complied with the requirements, petitioner compromised the image and integrity of his public office. Dishonesty and Conduct Prejudicial to the Best Interest of the Service are intrinsically connected since acts of dishonesty would indubitably tarnish the integrity of a public official.

Petitioner asserts that the finding of guilt against him is not supported by substantial evidence. While he insists that his act of making the assessment in the Order of Payment is a commendable act of an accommodating civil servant, it was not his duty to evaluate whether Animus International was a qualified applicant for a Permit to Import. [19] Such assertion is absurd. Common sense dictates that any officer who takes it upon himself to make an assessment of the fees for the issuance of a permit or license should also take it upon himself to ensure that the applicant is qualified. To permit a government official to prepare assessments for the issuance of permits or licenses and not place upon him or her the concurrent duty of examining the requirements would not only be inefficient, but would also open the floodgates of corruption. Petitioner's act of making the assessment implies that he had already examined the required documents and had found them sufficient. Bunag, the acting assessor of the licensing unit concerned, had in fact been misled by this same presumption when petitioner personally delivered to him the Order of Payment. As it turned out, Animus International had not even applied for a Permit to Import and was not an accredited dealer for Motorola, but was nevertheless able to illegally import P40,000,000.00 worth of SIM cards and Motorola cellular phones. By willfully turning a blind eye to Animus International's failure to comply with legal requisites and misleading his NTC colleagues, petitioner had not acted as a diligent civil servant as he claimed, but rather a dishonest and dishonorable public official.

Petitioner also makes much of the findings made by the NBI that his signature in the Permit to Import was forged. Such fact, however, does not negate a finding of guilt on the part of petitioner, who himself admitted that he prepared and made the assessment in the Order of Payment without examining the documents required of Animus International. It was by his own act that left room for Animus International to perpetuate the use of a false permit.

Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency." [20] The Courts cannot overemphasize the need for honesty and accountability in the acts of government officials.

In all, the consistent findings of the NTC, the CSC and the Court of Appeals on the petitioner's guilt deserve utmost respect, where their conclusions are supported by the admissions made by petitioner, as well as the testimonies of Bunag and Daban.

Well-settled in our jurisdiction is the doctrine that findings of fact of administrative agencies must be respected as long as they are supported by substantial evidence, even if such evidence is not overwhelming or preponderant. The quantum of proof necessary for a finding of guilt in administrative cases is only substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. [21]

Findings of fact of administrative bodies, if based on substantial evidence, are controlling on the reviewing authority. It is not for the appellate court to substitute its own judgment for that of the administrative agency on the sufficiency of the evidence and the credibility of the witnesses. Administrative decisions on matters within their jurisdiction are entitled to respect and can only be set aside on proof of grave abuse of discretion, fraud or error of law. [22]

IN VIEW OF THE FOREGOING, the instant Petition is DENIED and the assailed Decision of the Court of Appeals in C.A.-G.R. SP No. 93210, promulgated on 18 January 2007, is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona[*], Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, De Castro, and Brion, JJ., concur.

[*]On leave.

[1]Penned by Associate Justice Jose Catral Mendoza with Associate Justices Remedios A. Salazar-Fernando and Ramon M. Bato, Jr., concurring. Rollo, pp. 103-115.

[2]Id. at 64-73.

[3]Id. at 67.

[4]Id.

[5]Id. at 67-68.

[6]Id. at 27-28.

[7]Id. at 68-69.

[8]Id. at 43-48.

[9]Id. at 48.

[10] Id. at 69-73.

[11]Id. at 73.

[12]Id. at 110-115.

[13]Id. at 125.

[14]Id. at 14.

[15]Id. at 199-202.

[16]G.R. No. 106498, 28 June 1993, 223 SCRA 747, 754.

[17]National Police Commission v. Inspector Bernabe, 387 Phil. 819, 827 (2000).

[18]Largo v. Court of Appeals, G.R. No. 177244, 20 November 2007, 537 SCRA 721, 733.

[19]Rollo, pp. 204-208.

[20]Re: (1) Lost Checks Issued to the Late Roderick Roy P. Melliza, Former Clerk II, MCTC, Zaragga, Iloilo and (2) Dropping from the Rolls of Ms. Esther T. Andres, A.M. No. 2005-26-SC, 22 November 2006, 507 SCRA 478, 498.

[21]Lumiqued v. Exevea, G.R. No. 117565, 18 November 1997, 282 SCRA 125, 148.

[22]Dadubo v. Civil Service Commission, supra note 16 at 752-753.

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