

EUGENIO S. CAPABLANCA, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

G.R. No. 179370. November 18, 2009

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Uniformed members of the Philippine National Police (PNP) are considered employees of the National Government, and all personnel of the PNP are subject to civil service laws and regulations.[1] Petitioner cannot evade liability under the pretense that another agency has primary jurisdiction over him. Settled is the rule that jurisdiction is conferred only by the Constitution or the law.[2] When it clearly declares that a subject matter falls within the jurisdiction of a tribunal, the party involved in the controversy must bow and submit himself to the tribunal on which jurisdiction is conferred.

Factual Antecedents

On October 3, 1996, the PNP-Regional Office 10 appointed petitioner Eugenio S. Capablanca into the PNP service with the rank of Police Officer 1 (PO1) with a temporary status[3] and was assigned at the PNP Station in Butuan City. On November 29, 1998, petitioner took the PNP Entrance Examination conducted by the National Police Commission (NAPOLCOM)[4] and passed the same. On July 28, 2000, he took the Career Service Professional Examination-Computer Assisted Test (CSP-CAT) given by the Civil Service Commission (CSC)[5] and likewise passed the same. Thereafter, or on October 3, 2000, the Regional Director of Police Regional Office XIII conferred upon petitioner the permanent status as PO1.[6]

Proceedings before the Civil Service Commission

On October 15, 2001, the CSC Caraga Regional Office XIII (CSC Caraga) through its Regional Director Lourdes Clavite-Vidal informed PO1 Capablanca about certain alleged irregularities relative to the CSP-CAT which he took on July 28, 2000. According to the CSC, the "person in the picture pasted in the Picture Seat Plan (PS-P) is different from the person whose picture is attached in the Personal Data Sheet (PDS)" and that the signature appearing in the PS-P was different from the signature affixed to the PDS.[7] The CSC further informed petitioner that such findings of alleged examination irregularities constituted the offense of dishonesty if prima facie evidence was established.

A Preliminary Investigation was scheduled on November 16, 2001;[8] petitioner failed to appear but was represented by counsel who moved to dismiss the proceedings. He argued that it is the NAPOLCOM which has sole authority to conduct entrance and promotional examinations for police officers to the exclusion of the CSC, pursuant to *Civil Service Commission v. Court of Appeals*. [9] Thus, the CSP-CAT conducted on July 28, 2000 was void. Moreover, he alleged that the administrative discipline over police officers falls under the jurisdiction of the PNP and/or NAPOLCOM.[10]

In an Order[11] dated November 16, 2001, the CSC Caraga held that there was no dispute that it was the

NAPOLCOM which had the sole authority to conduct the entrance and promotional examinations of police officers. However, since petitioner submitted a CSC Career Service Professional eligibility and not a NAPOLCOM eligibility to support his appointment on a permanent status, then the CSC had jurisdiction to conduct the preliminary investigation.

The dispositive portion of the CSC Order dated November 16, 2001, reads:

WHEREFORE, the Motion to Dismiss filed by Atty. Poculan, for his client, Eugenio S. Capablanca is hereby DENIED for lack of merit. Accordingly, Capablanca is directed to submit his counter-affidavit within five (5) days from receipt hereof.[12]

Proceedings before the Regional Trial Court

To prevent the CSC Caraga from further proceeding with the conduct of the administrative investigation, PO1 Capablanca filed on January 16, 2002 a Petition[13] for prohibition and injunction with a prayer for the issuance of a temporary restraining order and writ of preliminary injunction with the Regional Trial Court of Butuan. The said court issued a 20-day temporary restraining order and set the case for summary hearing on February 8, 2002 to resolve the application for preliminary injunction.[14]

Instead of filing its Answer, the CSC Caraga moved to dismiss the case,[15] arguing inter alia that: a) PO1 Capablanca failed to exhaust administrative remedies by appealing before the CSC Central Office instead of filing a petition before the trial court; b) PO1 Capablanca's reliance on *Civil Service Commission v. Court of Appeals*[16] was misplaced because what he took was a career service professional examination and not a police entrance examination; and c) the CSC was not stripped of its original disciplinary jurisdiction over all cases involving civil service examination anomalies.

In its March 8, 2002 Resolution,[17] the trial court denied CSC's Motion to Dismiss for lack of merit. It held that the CSC had no jurisdiction to conduct the preliminary investigation, much less to prosecute PO1 Capablanca. The dispositive portion of the Resolution, reads:

WHEREFORE, in view of all the foregoing, respondent's motion to dismiss is denied for lack of merit. As a consequence and for want of jurisdiction, herein respondent, its Regional Director, Region 13 Caraga, or its officers, attorneys' agents, or any person acting for and its behalf, is hereby ordered to finally, permanently and perpetually desist, cease and stop from proceeding or conducting any administrative investigation against the petitioner Eugenio S. Capablanca.

No pronouncement as to costs.

IT IS SO ORDERED.[18]

Proceedings before the Court of Appeals

Its Motion for Reconsideration[19] unheeded,[20] the CSC Caraga filed a Petition

for Certiorari[21] before the Court of Appeals praying for the nullification of the Resolution of the trial court, and at the same time insisting on its jurisdictional power to prosecute the administrative case involving dishonesty and that PO1 Capablanca failed to exhaust administrative remedies.

In his Comment,[22] the petitioner contended that there was no need to exhaust administrative remedies because the proceeding before the CSC was an absolute nullity, and that it was the NAPOLCOM, the People's Law Enforcement Board (PLEB), or PNP which had primary jurisdiction over the alleged irregularities in the CSP-CAT. He alleged that the case involved a purely legal issue and that he would suffer irreparable injury if he should still await the outcome of the administrative action before the CSC Central Office. PO1 Capablanca

stressed that the July 28, 2000 CSP-CAT was ineffectual as far as he was concerned, because it was in the nature of a promotional examination for policemen and was solely within the province of NAPOLCOM.

On March 22, 2006, the Court of Appeals rendered its Decision[23] granting CSC's petition. The Court of Appeals found that PO1 Capablanca prematurely resorted to court intervention when the remedy of appeal to the CSC Central Office was available. Upholding the jurisdiction of the CSC Caraga, the appellate court declared that the subject of the latter's preliminary investigation was not with respect to PO1 Capablanca's acts in the conduct of his duties as a police officer, but with respect to the authenticity of the documents he submitted before the CSC Caraga in support of his application for permanent status as well as the veracity of its contents. It held that pursuant to the CSC's constitutional duty to protect the integrity of the civil service system, it acted within its authority to investigate irregularities or anomalies involving civil service examinations, and to ascertain whether a prospective civil service appointee is qualified in accordance with all the legal requirements.

Hence, this petition.

Petitioner's Arguments

Petitioner PO1 Capablanca assigns the following errors:

1

THE HONORABLE COURT OF APPEALS, WITH DUE RESPECT, GRAVELY ERRED IN DECLARING THAT RESPONDENT CSC HAS JURISDICTION AND DISCIPLINARY AUTHORITY OVER HEREIN PETITIONER, A MEMBER OF THE PHILIPPINE NATIONAL POLICE.

1-A

GRANTING THAT IT HAS, THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT DECLARING THAT IT HAS ONLY APPELLATE JURISDICTION OVER THE CASE AND IT IS THE NATIONAL POLICE COMMISSION (NAPOLCOM) WHICH HAS THE JURISDICTION TO CONDUCT INITIATORY INVESTIGATION OF THE CASE, AS HELD IN THE CASE OF MIRALLES VS. GO, G.R. NO. 139943, JANUARY 18, 2001.

II

THE HONORABLE COURT OF APPEALS, WITH DUE RESPECT GRAVELY ERRED IN DECLARING THAT HEREIN PETITIONER FAILED TO EXHAUST ADMINISTRATIVE REMEDIES.[24]

Respondent's Arguments

The CSC, through the Office of the Solicitor General (OSG) argues that in pursuing a case against one who undermines the integrity of the CSC examinations, the CSC Caraga was only acting within its mandated powers and duties. The OSG clarifies that the PNP does not have exclusive jurisdiction over disciplinary cases. Rather, its jurisdiction over such cases is concurrent with that of the CSC. It also argues that Civil Service Commission v. Court of Appeals[25] is irrelevant to petitioner's situation because the ruling therein does not affect the authority of the CSC to conduct the CSP examination and to investigate examination anomalies. Lastly, the OSG contends that petitioner should not have directly resorted to court action, because the CSC proper could still review the decisions and actions of the CSC Caraga.[26]

Issue

The case at bar boils down to the issue of whether the CSC Caraga has jurisdiction to conduct the preliminary investigation of a possible administrative case of dishonesty against PO1 Capablanca for alleged CSP examination

irregularity.

Our Ruling

The petition lacks merit.

The CSC, as the central personnel agency of the Government, is mandated to establish a career service, to strengthen the merit and rewards system, and to adopt measures to promote morale, efficiency and integrity in the civil service.[27] The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with original charters.[28] Specifically, Section 91 of Republic Act (RA) No. 6975 (1990) or the "Department of Interior and Local Government Act of 1990" provides that the "Civil Service Law and its implementing rules and regulations shall apply to all personnel of the Department," to which herein petitioner belongs.

Section 12 of Executive Order (EO) No. 292 or the "Administrative Code of 1987," enumerates the powers and functions of the CSC, to wit:

SEC. 12. Powers and Functions. - The Commission shall have the following powers and functions:

(1) Administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the Civil Service;

x x x x

(7) Control, supervise and coordinate Civil Service examinations. x x x

x x x x

(11) Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and actions of its offices and of the agencies attached to it. x x x

In addition, Section 28, Rule XIV of the Omnibus Civil Service Rules and Regulations specifically confers upon the CSC the authority to take cognizance over any irregularities or anomalies connected with the examinations, thus:

Sec. 28. The Commission shall have original disciplinary jurisdiction over all its officials and employees and over all cases involving civil service examination anomalies or irregularities.

To carry out this mandate, the CSC issued Resolution No. 991936, or the Uniform Rules on Administrative Cases in the Civil Service, empowering its Regional Offices to take cognizance of cases involving CSC examination anomalies:

SECTION 6. Jurisdiction of Civil Service Regional Offices. - The Civil Service Commission Regional Offices shall have jurisdiction over the following cases:

A. Disciplinary

1. Complaints initiated by, or brought before, the Civil Service Commission Regional Offices provided that the alleged acts or omissions were committed within the jurisdiction of the Regional Office, including Civil Service examination anomalies or irregularities and the persons complained of are employees of agencies, local or national, within said geographical areas;

x x x x

Based on the foregoing, it is clear that the CSC acted within its jurisdiction when it initiated the conduct of a

preliminary investigation on the alleged civil service examination irregularity committed by the petitioner.

However, petitioner contends that a citizen who has complaints against a police officer should bring his complaint before the following, citing Section 41 of RA 6975,[29] to wit:

(a) x x x x

(1) Chiefs of police, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof for a period not exceeding fifteen (15) days;

(2) Mayors of cities or municipalities, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period of not less than sixteen (16) days but not exceeding thirty (30) days;

(3) People's Law Enforcement Board, as created under Section 43 hereof, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period exceeding thirty (30) days; or by dismissal.

x x x x

(c) Exclusive Jurisdiction. - A complaint or a charge filed against a PNP member shall be heard and decided exclusively by the disciplining authority who has acquired original jurisdiction over the case and notwithstanding the existence of concurrent jurisdiction as regards the offense: Provided, That offenses which carry higher penalties referred to a disciplining authority shall be referred to the appropriate authority which has jurisdiction over the offense.

Based on the foregoing, petitioner avers that the CSC does not have the authority to conduct an initiatory investigation of the case, but it only has appellate jurisdiction to review the decision of any of the disciplining authorities above mentioned. Petitioner anchors his argument on the following provisions of EO 292 stating that the heads of departments, agencies, offices or bureaus should first commence disciplinary proceedings against their subordinates before their decisions can be reviewed by the CSC:

Section 47, Book V of EO 292:

Disciplinary Jurisdiction. - (1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office x x x

(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days' salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

Section 48, Book V of EO 292:

Procedure in Administrative Cases Against Non-Presidential Appointees. - (1) Administrative proceedings may be commenced against a subordinate officer or employee by the Secretary or head of office of equivalent rank, or head of local government, or chiefs of agencies, or regional directors, or upon sworn, written complaint of any other person.

We are not persuaded. It has already been settled in *Cruz v. Civil Service Commission*[30] that the appellate

power of the CSC will only apply when the subject of the administrative cases filed against erring employees is in connection with the duties and functions of their office, and not in cases where the acts of complainant arose from cheating in the civil service examinations. Thus:

Petitioner's invocation of the law is misplaced. The provision is applicable to instances where administrative cases are filed against erring employees in connection with their duties and functions of the office. This is, however, not the scenario contemplated in the case at bar. It must be noted that the acts complained of arose from a cheating caused by the petitioners in the Civil Service (Subprofessional) examination. The examinations were under the direct control and supervision of the Civil Service Commission. The culprits are government employees over whom the Civil Service Commission undeniably has jurisdiction. x x x

Moreover, in *Civil Service Commission v. Albao*,^[31] we rejected the contention that the CSC, under the aforesaid Sections 47 and 48 of Book V of EO 292, only has appellate disciplinary jurisdiction on charges of dishonesty and falsification of documents in connection with an appointment to a permanent position in the government service. We enunciated, thus:

Pursuant to Section 47 (1), (2) and Section 48 above, it is the Vice President of the Philippines, as head of office, who is vested with jurisdiction to commence disciplinary action against respondent Albao.

Nevertheless, this Court does not agree that petitioner is helpless to act directly and *motu proprio*, on the alleged acts of dishonesty and falsification of official document committed by respondent in connection with his appointment to a permanent position in the Office of the Vice President.

It is true that Section 47 (2), Title I (A), Book V of EO No. 292 gives the heads of government offices original disciplinary jurisdiction over their own subordinates. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days' salary. It is only when the penalty imposed exceeds the aforementioned penalties that an appeal may be brought before the Civil Service Commission which has appellate jurisdiction over the same in accordance with Section 47 (1) Title I(A), Book V of EO No. 292, thus:

SEC. 47. Disciplinary Jurisdiction. - (1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office.

x x x

The present case, however, partakes of an act by petitioner to protect the integrity of the civil service system, and does not fall under the provision on disciplinary actions under Sec. 47. It falls under the provisions of Sec. 12, par. 11, on administrative cases instituted by it directly. This is an integral part of its duty, authority and power to administer the civil service system and protect its integrity, as provided in Article IX-B, Sec. 3 of the Constitution, by removing from its list of eligibles those who falsified their qualifications. This is to be distinguished from ordinary proceedings intended to discipline a bona fide member of the system, for acts or omissions that constitute violations of the law or the rules of the service. (Emphasis Ours)

Incidentally, it must be mentioned at this juncture that citizen's complaints before the PLEB under RA 6975 pertain to complaints lodged by private citizens against erring PNP members for the redress of an injury, damage or disturbance caused by the latter's illegal or irregular acts, an example being that of a policeman who takes fish from the market without paying for it.^[32] Clearly, the PLEB has no jurisdiction concerning matters involving the integrity of the civil service system.

Finally, petitioner's reliance on *Civil Service Commission v. Court of Appeals*,^[33] is misplaced. In said case, the NAPOLCOM assailed Item 3 of CSC Resolution No. 96-5487, which provides:

3. Appointees to Police Officer and Senior Police Officer positions in the Philippine National Police must have passed any of the following examinations:

- a) PNP Entrance Examination;
- b) Police Officer 3[rd] Class Examination; and
- c) CSC Police Officer Entrance Examination.

The NAPOLCOM took exception to this provision, particularly letter (c), arguing that the requirement of taking a CSC Police Officer Entrance Examination is only applicable to entrance in the first-level position in the PNP, i.e., the rank of PO1.[34] NAPOLCOM stressed that what would entitle a police officer to the appropriate eligibility for his promotion in the PNP are the promotional examinations conducted by the NAPOLCOM, and not the CSC Police Officer Entrance Examination.

The Court of Appeals found in favor of the NAPOLCOM and held that the CSC, by issuing Item 3 of CSC Resolution No. 96-5487 encroached on the exclusive power of NAPOLCOM under RA 6975[35] to administer promotional examinations for policemen and to impose qualification standards for promotion of PNP personnel to the ranks of PO2 up to Senior Police Officers 1-4. Thus:

Admittedly, the CSC is mandated to conduct the qualifying entrance examination (CSC Police Officer Entrance Examination) for Police Officer 1. However, when the CSC prescribes the same examination for appointment of Senior Police Officer (SPO) under the questioned Item 3, it in effect imposes an examination for promotion (appointment) of a policeman to PO2 up to other higher ranks up to SP04. Thus Item 3 encompasses examinations for the positions of Police Officer as well as that of Senior Police Officer, meaning examination not only for appointment to PO1 but promotion to PO2 and PO3 up to the four SPO ranks.[36]

The Court of Appeals thus ordered the CSC to desist from conducting any promotional examination for Police Officers and Senior Police Officers.

In a Minute Resolution dated September 25, 2001 in G.R. No. 141732, we affirmed the Court of Appeals thereby sustaining the authority of the NAPOLCOM to administer promotional examinations for policemen.

It must be stressed however that the subject matter in the above cited case was the conduct of promotional examination for policemen. On the contrary, the issue in the instant case is the jurisdiction of the CSC with regard to anomalies or irregularities in the CSP-CAT, which is a totally different matter.

In fine, we find that CSC Caraga acted within its powers when it instituted the conduct of a preliminary investigation against herein petitioner. In view of the foregoing, we need not anymore attend to the issue of the doctrine of exhaustion of administrative remedies.

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.

Puno, C.J., Carpio, Carpio Morales, Chico-Nazario, Nachura, Leonardo-De Castro, Brion, Bersamin, Abad, and Villarama, Jr., JJ., concur.

Corona, Velasco, Jr., and Peralta, JJ., on official leave.

[*] The Court of Appeals is deleted as co-respondent pursuant to Section 4, Rule 45 of the Rules of Court.

[1] Republic Act No. 6975 (1990), Secs. 36 and 91.

[2] Civil Service Commission v. Albao, G.R. No. 155784, October 13, 2005, 472 SCRA 548, 555.

[3] Rollo, p. 70.

[4] Id. at 71.

[5] Id. at 107.

[6] Id. at 106.

[7] Id. at 74.

[8] Id.

[9] G.R. No. 141732, promulgated on September 25, 2001 in the form of a Minute Resolution, wherein we affirmed in toto the decision of the Court of Appeals in CA-G.R. SP No. 46503.

[10] See CSC Order dated November 16, 2001, rollo, p. 75.

[11] Id. at 75-76.

[12] Id. at 76.

[13] Id. at 77-82. Docketed as S.P. Civil Case No. 1059 and raffled to Branch 32.

[14] Id. at 87-88.

[15] Id. at 89-105.

[16] Supra note 9.

[17] Rollo, pp. 114-122; penned by Judge Victor A. Tomaneng.

[18] Id. at 122.

[19] Id. at 123-124.

[20] Id. at 140.

[21] Id. at 141-160.

[22] Id. at 161-176

[23] Id. at 47-57; penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Myrna Dimaranan-Vidal and Ricardo R. Rosario.

[24] Id. at 30-31.

[25] Supra note 9.

[26] Rollo, pp. 199-221.

[27] Constitution, Art. IX-B, Sec. 3. See Sec. 1, Book V of Executive Order (E.O.) No. 292 or the "Administrative Code of 1987".

[28] Constitution, Art. IX-B, Sec. 2(1). See Sec. 6, id.

[29] Section 52 of Republic Act No. 8551 amended Section 41 of Republic Act No. 6975, referring to "citizen's complaints" as those complaints filed by either a natural or juridical person.

[30] G.R. No. 144464, November 27, 2001, 370 SCRA 650, 655-656.

[31] Supra note 2 at 557-558.

[32] *Fianza v. People's Law Enforcement Board (PLEB)*, G.R. No. 109638, March 31, 1995, 243 SCRA 165, 178 and *Cordoviz v. People's Law Enforcement Board (PLEB)*, G.R. No. 109639, March 31, 1995, 243 SCRA 165.

[33] Supra note 2.

[34] Under Section 32 of RA 6975, the CSC administered the qualifying entrance examination for policemen on the basis of the standards set by the NAPOLCOM. RA 8551 amended this and now mandates the NAPOLCOM to administer both the entrance and promotional examinations for policemen on the basis of the standards it has set.

[35] Specifically Section 38 of the law which states:

Promotions. -- (a) A member of the PNP shall not be eligible for promotion to a higher position or rank unless he has successfully passed the corresponding promotional examination given by the Commission, or the Bar or corresponding board examinations for technical services and other professions x x x

[36] Rollo, pp. 181-182.

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