

MANICAM M. BACSASAR, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

G.R. No. 180853. January 20, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Petitioner Manicam M. Bacsasar (petitioner) filed this Petition for Certiorari seeking to nullify the Resolutions dated June 26, 2007[1] and October 2, 2007[2] of the Court of Appeals (CA) in CA-G.R. SP No. 01508.

On May 7, 2003, petitioner was charged with dishonesty by the Civil Service Commission-Autonomous Region in Muslim Mindanao (CSC-ARMM), committed as follows:

- That in your Personal Data Sheet (PDS), dated February 20, 2001, you indicated that you passed the Career Service Professional examination on November 28, 2000 with a rating of 87.54% conducted in Quezon City;
- That the same eligibility was used to support the issuance of an appointment in your favor by Mayor Hadji Ali MB. Munder of Bubong, Lanao del Sur as Municipal Assessor under Permanent status; and
- That a verification from Civil Service Regional Office - National Capital Region in Quezon City yielded a response that your name is not included in the Master List of passing and failing list of NCR-CSP dated November 28, 2000.[3]

In her answer, petitioner denied the charge. She averred that on October 15, 2002, a man with the name Tingcap Pandi, who is now deceased, approached her and convinced her to obtain her Civil Service eligibility from him without need of taking an examination. She admitted that she used the said eligibility to support the issuance of a permanent appointment, but averred that she was not aware that the eligibility issued to her was spurious. It was only after verification with the CSC-NCR that she learned the falsity of her eligibility.[4]

On October 6, 2003, petitioner informed the CSC-ARMM that she was waiving her right to a formal investigation. On February 9, 2004, CSC-ARMM rendered a decision[5] finding petitioner guilty of dishonesty and imposing upon her a penalty of dismissal from service with all its accessory penalties.

Petitioner appealed to the CSC. On December 14, 2005, the CSC issued Resolution No. 051885[6] dismissing the appeal. Sustaining the CSC-ARMM, the CSC held:

[S]ubstantial evidence has been established that Bacsasar is guilty of dishonesty by misrepresenting in her PDS that she passed the Career Service Professional examination given on November 28, 2000 with a rating of 87.54% in Quezon City. Notably, the certification of CSC-NCR that Bacsasar's name is not included in the Master List of passing and failing examinees during the NCR-CSP examination conducted on November 28, 2000 is sufficient to prove the charge of dishonesty against Bacsasar. Hence, it cannot be denied that Bacsasar is guilty of dishonesty.

The CSC disposed, thus:

WHEREFORE, the appeal of Manicam M. Bacsasar is hereby DISMISSED. Accordingly, the Decision dated February 9, 2004 of the CSC-ARMM, finding her guilty of Dishonesty for which she was meted out a penalty of dismissal from service including the accessory penalties of forfeiture of retirement benefits, cancellation of eligibility, and perpetual disqualification from reemployment in the government service, is AFFIRMED.[7]

Petitioner filed a motion for reconsideration, but it was denied by the CSC in its Resolution No. 062250[8] dated December 19, 2006. Petitioner received CSC Resolution 062250 on January 8, 2007. On January 23, 2007, she requested a thirty day-extension of time, or until February 22, 2007, to file a petition for review. Petitioner, however, failed to file the intended petition within the extended period.[9]

On February 27, 2007, petitioner filed a Motion to Admit (the attached Petition).[10]

On June 26, 2007, the CA dismissed the petition for having been tardily filed and for lack of merit. It held that the failure of the petitioner to file the intended petition for review within the extended period rendered the CSC decision final and executory. Accordingly, it had been divested of jurisdiction to entertain the petition. The CA also affirmed the CSC finding that there is substantial evidence on record to establish petitioner's culpability. A motion for reconsideration was filed, but the CA denied it on October 2, 2007.

Hence, this recourse by petitioner theorizing that:

- THE ASSAILED RESOLUTIONS DATED JUNE 26, 2007 AND OCTOBER 2, 2007 WERE ISSUED IN VIOLATION OF LAW OR (sic) DUE PROCESS;
- THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN AFFIRMING THE DECISION DATED FEBRUARY 9, 2004 OF THE CSC-ARMM REGIONAL DIRECTOR FINDING PETITIONER MANICAM M. BACSASAR GUILTY OF DISHONESTY;
- THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING THE FORMAL CHARGE AGAINST THE PETITIONER.[11]

We deny the petition.

Admittedly, petitioner received CSC Resolution No. 062250 dated December 19, 2006 on January 8, 2007. However, she filed her appeal with the CA only on February 27, 2007.[12] Clearly, her petition for review with the CA was tardily filed. The CSC resolutions, therefore, attained finality.

As we explained in *Emerlinda S. Talento v. Hon. Remegio M. Escalada, Jr.*:[13]

The perfection of an appeal in the manner and within the period prescribed by law is mandatory. Failure to conform to the rules regarding appeal will render the judgment final and executory and beyond the power of the Court's review. Jurisprudence mandates that when a decision becomes final and executory, it becomes valid and binding upon the parties and their successors-in-interest. Such decision or order can no longer be disturbed or reopened no matter how erroneous it may have been.

Accordingly, the CA correctly dismissed the petition as it no longer had any jurisdiction to alter or nullify the CSC resolutions.

But, if only to show that the petition is doomed to fail anyway, we will discuss the issues raised by the petitioner.

Petitioner asserts denial of due process because her case was decided without a formal investigation. She claims that she was denied opportunity to present evidence, to confront the witnesses against her, and to object to the evidence adduced against her.

We are not convinced.

To begin with, petitioner waived her right to a formal investigation on October 6, 2003.[14] Thus, she cannot decry that she was denied her right to a formal investigation.

Second, records show that petitioner never raised this issue in the proceedings below. In the proceedings before the CSC and the CA, petitioner's defense zeroed in on her alleged lack of knowledge that her eligibility was spurious. It is too late in the day for petitioner to raise it for the first time in this petition.

As a rule, no question will be entertained on appeal unless it has been raised in the court below. Points of law, theories, issues and arguments not brought to the attention of the lower court ordinarily will not be considered by a reviewing court, because they cannot be raised for the first time at that late stage. Basic considerations of due process underlie this rule. [15]

Thirdly, petitioner was given ample opportunity to defend her case, contrary to what she wants to portray.

It must be remembered that the essence of due process does not necessarily require a hearing, but simply a reasonable opportunity or right to be heard or, as applied to administrative proceedings, an opportunity to explain one's side.[16]

Due process in the administrative context does not require trial-type proceedings similar to those in the courts of justice. A formal trial-type hearing is not at all times and in all instances essential to due process. What is simply required is that the party concerned is given due notice and is afforded an opportunity or right to be heard. It is enough that the parties are given a fair and reasonable opportunity to explain their respective sides of the controversy and to present evidence on which a fair decision can be made.[17] To be heard does not only mean verbal arguments in court; one may also be heard through pleadings. Where opportunity to be heard, either through oral arguments or through pleadings, is accorded, there is no denial of procedural due process.[18] In other words, it is not legally objectionable for an administrative agency to resolve a case based solely on position papers, affidavits or documentary evidence submitted by the parties, as affidavits of witnesses may take the place of their direct testimonies.[19]

Records show that petitioner answered the charges against her. She even interposed an appeal from the decision of the CSC-ARMM to the CSC, and then to the CA. Clearly, she was afforded an opportunity to be heard through her pleadings; hence, her right to due process was not impaired.

Petitioner also ascribes reversible error on the part of the CA in not dismissing the case against her. Petitioner maintains that she was not aware that her eligibility was spurious. She was made to believe by Tingcap Pandi that the said eligibility was genuine. She insists that there is no substantial evidence to prove her guilt of dishonesty.

The issue of whether petitioner's guilt for dishonesty is supported by substantial evidence is factual in nature, the determination of which is beyond the ambit of this Court. Our task in an appeal by petition for review on certiorari as a jurisdictional matter is limited to reviewing errors of law that might have been committed by the CA.[20] The Supreme Court cannot be tasked to go over the proofs presented by the petitioner in the proceedings below and analyze, assess and weigh them to ascertain if the court a quo and the appellate court were correct in their appreciation of the evidence.[21] More so, in the instant case, where the CA affirmed the factual findings of the CSC. Although the rule admits of several exceptions, none of them are in point in this case.

Petitioner was charged with dishonesty which is defined as the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty.[22]

Indisputably, when petitioner applied for the position of Municipal Assessor, she submitted a Certificate of Eligibility purportedly issued by the CSC certifying that she passed the Career Service Professional examination

on November 28, 2000 with a rating of 87.54%. She also submitted a PDS dated February 21, 2001 stating that she passed the Career Service Professional examination on November 28, 2001 with a rating of 87.54%. Upon verification, it was found that her Certificate of Eligibility was spurious. Clearly, there is sufficient evidence on record to establish that petitioner is, indeed, guilty of dishonesty.

We cannot accept petitioner's simplistic claim that she used the fake eligibility in good faith because she was not aware that the same was spurious.

Good faith is ordinarily used to describe that state of mind denoting honesty of intention and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious. In short, good faith is actually a question of intention. Although this is something internal, we can ascertain a person's intention not from his own protestation of good faith, which is self-serving, but from evidence of his conduct and outward acts.[23]

In this light, we quote with approval the following disquisition of the CA rejecting petitioner's protestation of good faith:

[P]etitioner, from her actuations, cannot be considered to have acted in good faith when she stated in her Personal Data Sheet that she passed the Career Service Professional examination on the basis of a spurious document furnished her by a certain Tingcap Pandi. We carefully noted her acts which are inconsistent with her protestation of good faith, thus:

First, she obviously knew that Tingcap Pandi, if indeed, he was existing, was a fixer, because any aspirant for employment in the government service, such as petitioner, knows well that civil service eligibility cannot be obtained without taking and passing an appropriate civil service examination.

Second, petitioner claims she relied on the assurance of Tingcap Pandi, who "approached xxx and convinced and persuaded her to file CSC eligibility through him xxx without an examination." Amazingly, petitioner believed an unbelievable tale. Anyone who wants to be appointed a[s] Municipal Assessor, a position of grave responsibility, cannot be recklessly credulous or downright gullible. As we stressed earlier, a person is considered in good faith not only when he has shown an honest intention but that he must also be free from knowledge of circumstances which ought to put him on inquiry. To be approached by a person offering an unusual "service" should have put petitioner on guard as to induce her to scrutinize the integrity of the offer.

Third, petitioner did not take any step to determine from the CSC the authenticity of the document procured for her by the "fixer," which turned out to be spurious, before using it as basis for indicating in her PDS that she passed the civil service professional examination. This is (sic) aberrant behavior of the petitioner is contrary to good faith.

Fourth, without verifying with the CSC the authority of Tingcap Pandi in offering the unusual "service", petitioner proceeded to use the spurious document in support of her appointment as Municipal Assessor.[24]

It must be stressed that dishonesty is a serious offense, which reflects on the person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity. Its immense debilitating effect on the government service cannot be over-emphasized. Under Civil Service regulations, the use of fake or spurious civil service eligibility is regarded as dishonesty and grave misconduct, punishable by dismissal from the service.[25] The CA therefore committed no reversible error in upholding petitioner's dismissal.

WHEREFORE, the petition is DENIED. The assailed Resolutions of the Court of Appeals in CA-G.R. SP No. 01508 are AFFIRMED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., and Leonardo-De Castro, JJ., concur.

Carpio, J., on official leave.

Brion, J., on sick leave.

Peralta, J., on leave.

[1] Penned by Associate Justice Teresita Dy-Liacco Flores, with Associate Justices Rodrigo F. Lim, Jr. and Michael P. Elbinias, concurring; rollo, pp. 45-56.

[2] Id. at 57-58.

[3] Rollo, p. 66.

[4] Id. at 67-68.

[5] Id. at 69-70.

[6] Id. at 80-84.

[7] Id. at 84.

[8] Id. at 90-95.

[9] See CA Resolution dated June 26, 2007, p. 7; id. at 51.

[10] Id.

[11] Rollo, p. 37.

[12] See Petition, p. 5; id. at 36.

[13] G.R. No. 180884, June 27, 2008.

[14] See CSC Resolution No. 051885, p. 3; rollo, p. 82.

[15] Ulep v. Court of Appeals, G.R. No. 125254, October 11, 2005, 472 SCRA 241, 257.

[16] Sarapat v. Salanga, G.R. No. 154110, November 23, 2007, 538 SCRA 324, 332.

[17] Lastimoso v. Asayo, G.R. No. 154243, December 4, 2007, 539 SCRA 381, 384, citing Samalio v. Court of Appeals, 454 SCRA 462 (2005).

[18] Liguin v. Judge Camano, Jr., 435 Phil. 695, 705 (2002).

[19] Samalio v. Court of Appeals, supra note 17, at 473.

[20] Rash C. Roque v. Court of Appeals, G.R. No. 179245, July 23, 2008.

[21] Medina v. Commission on Audit, G.R. No. 176478, February 4, 2008, 543 SCRA 684, 698.

[22] See Civil Service Commission v. Cayobit, 475 Phil. 452, 460 (2003).

[23] Civil Service Commission v. Maala, G.R. No. 165253, August 18, 2005, 467 SCRA 390, 399.

[24] Rollo, pp. 53-54.

[25] See Civil Service Commission v. Cayobit, supra note 22.

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