CLARITA J. CARBONEL, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

G.R. No. 187689. September 07, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking to reverse and set aside the Court of Appeals (CA) Decision[1] dated November 24, 2008 and Resolution[2] dated April 29, 2009 in CA-G.R. SP No. 101599.

Petitioner Clarita J. Carbonel was an employee of the Bureau of Jail Management and Penology, Makati City. She was formally charged with Dishonesty, Grave Misconduct, and Falsification of Official Documents by the Civil Service Commission Regional Office No. IV (CSCRO IV).

The Civil Service Commission (CSC), as affirmed by the CA, established the following facts:

On May 21, 1999, petitioner went to the CSCRO IV to secure a copy of the result of the Computer Assisted Test (CATS) Career Service Professional Examination given on March 14, 1999, because she lost the original copy of her Career Service Professional Certificate of Rating (hereafter referred to as certificate of rating).[3] Petitioner was directed to accomplish a verification slip. The Examination Placement and Service Division noticed that petitioner's personal and physical appearance was entirely different from the picture of the examinee attached to the application form and the picture seat plan. It was also discovered that the signature affixed on the application form was different from that appearing on the verification slip.[4] Because of these discrepancies, the Legal Affairs Division of the CSCRO IV conducted an investigation.

In the course of the investigation, petitioner voluntarily made a statement[5] before Atty. Rosalinda S.M. Gepigon, admitting that, sometime in March 1999, she accepted the proposal of a certain Bettina J. Navarro (Navarro) for the latter to obtain for petitioner a Career Service Professional Eligibility by merely accomplishing an application form and paying the amount of P10,000.00. Petitioner thus accomplished an application form to take the CATS Career Service Professional Examination and gave Navarro P5,000.00 as down payment. Upon receipt of the original copy of the certificate of rating from Navarro, petitioner gave the latter the remaining P5,000.00. Petitioner, however, misplaced the certificate of rating. This prompted her to secure another copy from the CSCRO IV.

Hence, the formal charge against petitioner.

Denying her admissions in her voluntary statement before the CSCRO IV, petitioner, in her Answer,[6] traversed the charges against her. She explained that after filling up the application form for the civil service examination, she asked Navarro to submit the same to the CSC. She, however, admitted that she failed to take the examination as she had to attend to her ailing mother. Thus, when she received a certificate of eligibility despite her failure to take the test, she was anxious to know the mystery behind it. She claimed that she went to the CSCRO IV not to

get a copy of the certificate of rating but to check the veracity of the certificate. More importantly, she questioned the use of her voluntary statement as the basis of the formal charge against her inasmuch as the same was made without the assistance of counsel.

After the formal investigation, the CSCRO IV rendered its March 25, 2002 Decision No. 020079[7] finding petitioner guilty of dishonesty, grave misconduct, and falsification of official documents. The penalty of dismissal from the service, with all its accessory penalties, was imposed on her. Petitioner's motion for reconsideration was denied by CSCRO IV on November 14, 2003.[8]

Petitioner appealed, but the CSC dismissed[9] the same for having been filed almost three years from receipt of the CSCRO IV decision. The CSC did not give credence to petitioner's explanation that she failed to timely appeal the case because of the death of her counsel. The CSC opined that notwithstanding the death of one lawyer, the other members of the law firm, petitioner's counsel of record, could have timely appealed the decision.[10] Petitioner's motion for reconsideration was denied in Resolution No. 072049[11] dated November 5, 2007.

Unsatisfied, petitioner elevated the matter to the CA. On November 24, 2008, the CA rendered the assailed decision affirming the decisions and resolutions of the CSCRO IV and the CSC. Petitioner's motion for reconsideration was denied by the CA on April 29, 2009.

Hence, the instant petition based on the following grounds:

> I
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> SERIOUS ERROR OF FACT AND LAW AMOUNTING TO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY THE COURT OF APPEALS IN ITS ASSAILED DECISION DATED NOVEMBER 24, 2008 BECAUSE PETITIONER'S FINDING OF GUILT WAS GROUNDED ENTIRELY ON HER UNSWORN STATEMENT THAT SHE ADMITTED THE OFFENSES CHARGED AND WITHOUT THE ASSISTANCE OF A COUNSEL.
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> II
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> THE CONCLUSION AND FINDING OF THE COURT OF APPEALS IN ITS ASSAILED DECISION THAT PETITIONER'S APPEAL WAS LOST THRU HER OWN FAULT OR NEGLIGENCE WAS PREMISED ON MISAPPREHENSION OF FACTS.
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> III
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> THE COURT OF APPEALS IN ITS ASSAILED DECISION HAS DECIDED THE CASE NOT IN ACCORD WITH THE DECISIONS OF THIS HONORABLE COURT.[12]

The petition is without merit.

It is undisputed that petitioner appealed the CSCRO IV's decision almost three years from receipt thereof. Undoubtedly, the appeal was filed way beyond the reglementary period when the decision had long become final and executory. As held in Bacsasar v. Civil Service Commission,[13] citing Talento v. Escalada, Jr.[14]

> 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 loner be disturbed or re-opened no matter how erroneous it may have been.

This notwithstanding, on petition before the CA, the appellate court reviewed the case and disposed of it on the merits, not on pure technicality.

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To accentuate the abject poverty of petitioner's arguments, we discuss hereunder the issues she raised.

Petitioner faults the CSC's finding because it was based solely on her uncounselled admission taken during the investigation by the CSCRO IV. She claims that her right to due process was violated because she was not afforded the right to counsel when her statement was taken.

It is true that the CSCRO IV, the CSC, and the CA gave credence to petitioner's uncounselled statements and, partly on the basis thereof, uniformly found petitioner liable for the charge of dishonesty, grave misconduct, and falsification of official document.[15]

However, it must be remembered that the right to counsel under Section 12 of the Bill of Rights is meant to protect a suspect during custodial investigation.[16] Thus, the exclusionary rule under paragraph (2), Section 12 of the Bill of Rights applies only to admissions made in a criminal investigation but not to those made in an administrative investigation.[17]

While investigations conducted by an administrative body may at times be akin to a criminal proceeding, the fact remains that, under existing laws, a party in an administrative inquiry may or may not be assisted by counsel, irrespective of the nature of the charges and of petitioner's capacity to represent herself, and no duty rests on such body to furnish the person being investigated with counsel.[18] The right to counsel is not always imperative in administrative investigations because such inquiries are conducted merely to determine whether there are facts that merit the imposition of disciplinary measures against erring public officers and employees, with the purpose of maintaining the dignity of government service.[19]

As such, the admissions made by petitioner during the investigation may be used as evidence to justify her dismissal.[20] We have carefully scrutinized the records of the case below and we find no compelling reason to deviate from the findings of the CSC and the CA. The written admission of petitioner is replete with details that could have been known only to her.[21] Besides, petitioner's written statement was not the only basis of her dismissal from the service. Records show that the CSCRO IV's conclusion was reached after consideration of all the documentary and testimonial evidence submitted by the parties during the formal investigation.

Now, on petitioner's liability and penalty.

It has been established that petitioner accepted Navarro's proposal for the latter to obtain for petitioner a Career Service Professional Eligibility by merely accomplishing an application form and in consideration of the amount of P10,000.00. Petitioner thus accomplished an application form to take the CATS Career Service Professional Examination and gave Navarro P5,000.00 as down payment. Upon receipt of the original copy of the certificate of rating from Navarro, petitioner gave the latter the remaining P5,000.00. Petitioner, however, misplaced the certificate of rating that prompted her to secure another copy from the CSCRO IV. The CSCRO IV noticed that petitioner's personal and physical appearance was entirely different from the picture of the examinee attached to the application form and the picture seat plan. It was also discovered that the signature affixed on the same application form was different from that appearing on the verification slip. Clearly, petitioner falsely represented that she took the civil service examination when in fact someone else took the examination for her.

CSC Memorandum Circular No. 15, series of 1991, provides:

> An act which includes the procurement and/or use of fake/spurious civil service eligibility, the giving of assistance to ensure the commission or procurement of the same, cheating, collusion, impersonation, or any other anomalous act which amounts to any violation of the Civil Service examination, has been categorized as a grave offense of Dishonesty, Grave Misconduct or Conduct Prejudicial to the Best Interest of the Service.[22]

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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 overemphasized.[23] If a government officer or employee is dishonest or is guilty of oppression or grave misconduct, even if said defects of character are not connected with his office, they affect his right to continue in office. The government cannot tolerate in its service a dishonest official, even if he performs his duties correctly and well, because by reason of his government position, he is given more and ample opportunity to commit acts of dishonesty against his fellow men, even against offices and entities of the government other than the office where he is employed; and by reason of his office, he enjoys and possesses a certain influence and power which renders the victims of his grave misconduct, oppression, and dishonesty less disposed and prepared to resist and to counteract his evil acts and actuations.[24]

Under the Civil Service Rules, dishonesty is a grave offense punishable by dismissal which carries the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits (except leave credits), and disqualification from reemployment in the government service.[25]

In Civil Service Commission v. Dasco,[26] Bartolata v. Julaton,[27] and Civil Service Commission v. Sta. Ana,[28] we found the respondents-employees therein guilty of dishonesty when they misrepresented that they took the Civil Service Examination when in fact someone else took the examination for them. Because of such dishonesty, the employees were dismissed from government service.

We find no reason to deviate from these previous rulings.

WHEREFORE, premises considered, the petition is DENIED for lack of merit. The Court of Appeals Decision dated November 24, 2008 and Resolution dated April 29, 2009 in CA-G.R. SP No. 101599 are AFFIRMED.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and Sereno, JJ., concur.
Brion, J., on official leave.

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[1] Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Jose C. Reyes, Jr. and Myrna Dimaranan Vidal, concurring; rollo, pp. 22-41.

[2] Id. at 43-44.

[3] CA rollo, pp. 17-18.

[4] Id. at 18.

[5] Id. at 47-50.

[6] Id. at 51-53.

[7] Penned by Director Rebecca A. Fernandez; id. at 17-35.

[8] Id. at 44-46.

[9] Embodied in Resolution No. 071354, dated July 18, 2007; id. at 36-40.

[10] Id. at 36-40.

[11] Id. at 41-43.

[12] Rollo, pp. 12-13.

[13] G.R. No. 180853, January 20, 2009, 576 SCRA 787, 792.

[14] G.R. No. 180884, June 27, 2008, 556 SCRA 491, 498.

[15] Donato, Jr. v. Civil Service Commission Regional Office No. 1, G.R. No. 165788, February 7, 2007, 515 SCRA 48, 62.

[16] Remolona v. Civil Service Commission, 414 Phil. 590, 598 (2001).

[17] Id. at 599.

[18] Id.; Sebastian, Sr. v. Hon. Garchitorena, 397 Phil. 519, 527 (2000); Lumiqued v. Hon. Exevea, 346 Phil. 807, 822 (1997).

[19] Remolona v. Civil Service Commission, supra; Sebastian, Sr. v. Hon. Garchitorena, supra; Lumiqued v. Hon. Exevea, supra, at 823.

[20] Remolona v. Civil Service Commission, supra.

[21] Id. at 601.

[22] As cited in Bartolata v. Julaton, A.M. No. P-02-1638, July 6, 2006, 494 SCRA 433, 439-440.

[23] Bacsasar v. Civil Service Commission, supra note 13, at 796.

[24] Remolona v. Civil Service Commission, supra note 16, at 600.

[25] Civil Service Commission v. Dasco, A.M. No. P-07-2335, September 22, 2008, 566 SCRA 114, 122.

[26] Id.

[27] Supra note 22.

[28] 450 Phil. 59 (2003).

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