

CIVIL SERVICE COMMISSION, PETITIONER, VS. AURORA M. CLAVE, RESPONDENT.

G.R. No. 194645. March 06, 2012

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PER CURIAM:

The Cases

Before the Court are two petitions for certiorari assailing the 27 July 2010 Decision[1] and 24 November 2010 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 106229.

In G.R. No. 194645, petitioner Civil Service Commission (CSC) asks this Court to set aside the decision of the Court of Appeals and to impose on respondent Aurora M. Clave (Clave) the penalty of dismissal from service.

In G.R. No. 194665, petitioner Government Service Insurance System (GSIS) likewise prays this Court to set aside the Court of Appeals' decision and to impose on Clave the penalty of dismissal from service.

The Antecedent Facts

These cases originated from Administrative Case No. 05-055 filed by GSIS against Clave. GSIS alleged that Clave was a Senior Computer Operator I of the Social Insurance Group (SIG) at the Manila District Office of the GSIS. On 9 December 2003, Diosdado V. Estoque (Estoque), through the Mainframe Salary Loan System (MSLS), granted Marie Ann F. Tornea (Tornea) an enhanced salary loan with net proceeds of P73,123.87 for which GSIS Check No. IC2123810 was issued. The check was later released and negotiated.

On 16 December 2003, Clave, without proper authority or valid reason and in gross violation of pertinent rules and procedure, cancelled the header of Tornea's loan as appearing in the MSLS. Clave used her operator ID (AMCO) and the computer terminal assigned to her (SI42). By cancelling the loan, Clave made it appear that the loan had not been granted to Tornea.

Clave countered that she was not aware of Tornea's loan because it was processed by Estoque on 9 December 2003 and she was absent on that day. Clave further alleged that the authority given to her on loan applications was limited only to granting salary loan applications and cancelling voided checks or checks that were physically defective due to computer malfunction. Clave alleged that she was not authorized to use Function "D" which was the deletion function used in cancelling the header of Tornea's loan. According to Clave, only the section and division chiefs of the loans administrative division and the Information Technology Services Group (ITSG) can access Function "D." Finally, Clave alleged that, at that time, she had been with the GSIS for 28 years with unblemished service and dedicated loyalty.

The Decision of the GSIS

In its 23 May 2007 Decision,[3] the GSIS found Clave guilty of simple neglect of duty. The GSIS ruled that while Clave was not authorized to use transaction code "LSMH.D" to delete loan headers, she was given authority to cancel loans that were previously granted by using transaction code "LSLC," which was used in this case. The

GSIS ruled that each employee tasked to grant or cancel loans is assigned a corresponding user ID and password known only to the specified user. The ID is the tracking device used to establish the identity of the person responsible for any modification or alteration in the MSLS database. All the transactions of a particular user are recorded and logged in the MSLS database. In this case, it was shown that Clave was responsible for the cancellation of the header of Tornea's loan.

The dispositive portion of the GSIS Decision reads:

WHEREFORE, Aurora M. Clave is found GUILTY of Simple Neglect of Duty. This being the second time she was found guilty of the same offense, she is hereby meted the penalty of DISMISSAL FROM THE SERVICE, which shall carry with it cancellation of eligibility; forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service.

It is so ordered.[4]

Clave filed a motion for reconsideration. In its 7 July 2008 Resolution,⁵ the GSIS denied Clave's motion for reconsideration for lack of merit.

Clave filed an appeal from the GSIS Decision to the Civil Service Commission (CSC).

The Decision of the Civil Service Commission

In its Resolution No. 081951[6] dated 13 October 2008, the CSC dismissed the appeal and affirmed the GSIS Decision dismissing Clave from service. The CSC ruled that the GSIS did not err in finding Clave guilty of simple neglect of duty. The CSC found that there was substantial evidence that proved Clave's guilt. The CSC noted that the data extracted by the ITSG showed that the user ID used was AMCO in the transaction "LSLC" to cancel the header of Tornea's loan. It was established that AMCO was Clave's user ID.

The dispositive portion of the CSC Resolution reads:

WHEREFORE, the appeal of Aurora M. Clave, Senior Computer Operator I, Social Insurance Group, Government Service Insurance System (GSIS), is hereby DISMISSED. Accordingly, the Decision dated May 23, 2007 of the same Office, dismissing her from the service for having been found guilty for the second time, of the offense of Simple Neglect of Duty, is AFFIRMED. She is likewise imposed the accessory penalties of perpetual disqualification to hold public office, forfeiture of retirement benefits, cancellation of Civil Service eligibility and bar from taking Civil Service examinations.[7]

Clave filed a petition for review before the Court of Appeals, assailing the CSC Resolution.

The Decision of the Court of Appeals

In its 27 July 2010 Decision, the Court of Appeals partly granted Clave's petition. The Court of Appeals affirmed the CSC insofar as it found Clave guilty of simple neglect of duty. However, the Court of Appeals modified the CSC Resolution by reducing the penalty imposed on Clave from dismissal from service to suspension from office without salary and other benefits for one year, with a stern warning that a transgression of a similar nature will warrant her dismissal from service.

The Court of Appeals ruled that there was nothing in the records that showed that Clave acted in bad faith when she gave her operator ID and password to other persons. The Court of Appeals ruled that Clave's carelessness should not equate to dismissal since it was not coupled with bad faith.

The Court of Appeals found that while Clave's guilt was supported by substantial evidence, the imposition of the penalty of dismissal from service was too harsh. The dispositive portion of the Decision of the Court of Appeals

reads:

WHEREFORE, IN VIEW of THE FOREGOING, the petition is partly GRANTED. The Resolution of the Civil Service Commission dated 13 October 2008 is AFFIRMED insofar as it found petitioner Aurora M. Clave guilty of Simple Neglect of Duty, but in lieu of dismissal from the service, petitioner is hereby SUSPENDED from office without salary and other benefits for one (1) year, with a STERN WARNING that another transgression of a similar nature will merit dismissal from the service.

SO ORDERED.[8]

Both the CSC and the GSIS moved for the reconsideration of the Decision of the Court of Appeals.

In its 24 November 2010 Resolution, the Court of Appeals denied the motions.

Hence, the petitions separately filed by the CSC and the GSIS before this Court.

The Issue

Petitioners CSC and GSIS raised a common issue in these cases, that is, whether the Court of Appeals committed a reversible error in reducing the penalty imposed on Clave from dismissal from service to suspension for one year.

The Ruling of this Court

The petitions are meritorious.

Simple neglect of duty is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference.[9] The Court of Appeals sustained the findings of the GSIS and the CSC, and found that there was substantial evidence to hold Clave liable for simple neglect of duty. We agree with the Court of Appeals on this issue.

In these cases, the Court of Appeals found that while Clave was not specifically authorized to delete headers, she had authority to cancel granted loans through the transaction code "LSLC." Further, Clave was one of the users of the computer terminal SI42 that was used to cancel the header of Tornea's loan. The Court of Appeals found that the computer terminal SI42 that was used to cancel the header of Tornea's loan was also used by two persons, including Estoque who was previously found guilty of dishonesty and grave misconduct for cancelling the loans and headers of some GSIS members. Thus, it might be possible that Estoque used Clave's operator ID and password in cancelling the header of Tornea's loan. However, granting that this might be true, Clave still failed to explain why other persons knew her operator ID and password that were used in the cancellation of the header. The Court of Appeals correctly ruled that Clave was neglectful in safeguarding information that should have been known only to herself.

However, we do not agree with the penalty imposed by the Court of Appeals.

Simple neglect of duty is a less grave offense punishable by suspension of one month and one day to six months for the first offense and dismissal for the second offense.[10]

In reducing the penalty imposed on Clave, the Court of Appeals considered Section 53 of the Uniform Rules on Administrative Cases in the Civil Service, which states:

Sec. 53. Extenuating, Mitigating, Aggravating, or Alternative Circumstances. - In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered:

The following circumstances shall be appreciated:

x x x

j. Length of service in the government.

x x x

The Court of Appeals ruled that length of service in the government can mitigate or aggravate the penalty, depending on the circumstances of the case. The Court of Appeals considered Clave's 30 years of service in the government, as well as her lack of bad faith, in reducing the penalty imposed by the GSIS and the CSC. While acknowledging that this was not Clave's first offense for simple neglect of duty, the Court of Appeals invoked the court's discretion to temper the harshness of its judgment with mercy and cited humanitarian reasons for the modification of the decisions of the GSIS and the CSC.

Again, we do not agree with the Court of Appeals.

Section 53 of the Uniform Rules on Administrative Cases in the Civil Service is clear that length of service may be considered either as mitigating or aggravating depending on the circumstances of the case. Here, it was shown that Clave was previously found guilty by the GSIS of simple neglect of duty in Adm. Case No. 05-027[11] in its Decision dated 12 February 2007 for unauthorized cancellation of the loan and header of one Basilio C. Benitez. In that case, the GSIS suspended Clave for three months. Earlier, in another Decision[12] dated 10 November 2005, the GSIS found Clave guilty of conduct prejudicial to the interest of the service for her participation in a mass action that resulted in the disruption of GSIS operations, for which she was meted the penalty of suspension for six months and one day. Hence, Clave's length of service in the government could not mitigate her liability considering that the present offense is not her first offense but her third offense. Applying Section 52(B) of the Revised Rules on Administrative Cases in the Civil Service, the penalty of dismissal imposed by the GSIS and affirmed by the CSC should instead be imposed on Clave.

WHEREFORE, we SET ASIDE the 27 July 2010 Decision and 24 November 2010 Resolution of the Court of Appeals in CA-G.R. SP No. 106229 insofar as it modified the penalty imposed on Aurora M. Clave and REINSTATE Resolution No. 081951 dated 13 October 2008 of the Civil Service Commission dismissing Clave from service with perpetual disqualification to hold public office, forfeiture of retirement benefits except accrued leave credits, cancellation of Civil Service eligibility, and prohibition from taking Civil Service examinations.

SO ORDERED.

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

[1] Rollo (G.R. No. 194645), pp. 24-39. Penned by Associate Justice Rodil V. Zalameda with Associate Justices Apolinario D. Bruselas, Jr. and Mario V. Lopez, concurring.

[2] Id. at 40-42.

[3] Rollo (G.R. No. 194665), pp. 67-74. Signed by GSIS President and General Manager Winston F. Garcia.

[4] Id. at 74.

[5] Id. at 89-92.

[6] Id. at 150-161. Signed by Commissioners Mary Ann Z. Fernandez-Mendoza and Cesar D. Buenaflor.

[7] Id. at 161.

[8] Rollo (G.R. No. 194645), p. 38.

[9] Office of the Court Administrator v. Garcia-Rañoco, A.M. No. P-03-1717, 6 March 2008, 547 SCRA 670.

[10] Lao v. Mabutin, A.M. No. MTJ-06-1646, 16 July 2008, 558 SCRA 411, citing Revised Uniform Rules on Administrative Cases in the Civil Service, Section 52(B)(1).

[11] Rollo (G.R. No. 194665), pp. 75-81.

[12] Id. at 82-88.

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