

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. ROGELIO F. MANALO, RESPONDENT.

G.R. No. 208979. September 21, 2016

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This Petition for Review on Certiorari[1] assails the Court of Appeals' March 21, 2013 Decision[2] and August 30, 2013 Resolution[3] denying herein petitioner's motion for reconsideration in CA-G.R. SP No. 118452.

Factual Antecedents

The narration of the facts by the Civil Service Commission (CSC) is most concise and accurate:

In 2004, Rogelio F. Manalo,[4] Computer Operator IV, Government Service Insurance System (GSIS) was assigned as membership processor at the Membership Department I (Manila) where his main duty was to process membership applications. Particularly, he was tasked to check the completeness of the documents submitted to support membership application and verify the authenticity of the signatures of the authorized officials before creating an applicant's membership record and policy. To enable Manalo to access system's membership database, he was assigned computer access/operator code "A6HT" and terminal ID "A8GJ."

Sometime in 2005, the Internal Audit Service Group (IASG), GSIS, conducted an audit examination and found that on several occasions in July 2004, Manalo's operator code and terminal ID was used in creating the membership records and policies of fictitious and terminated employees of the City Government of Manila (CGM). These fictitious and terminated employees were granted loans because of their membership records and policies. The names of the fictitious CGM employees who were able to secure loans from the GSIS are the following: Leonardo De Jesus, Melanie Mendoza, Jose Ramirez, Elizabeth Roces, Eduardo Salcedo, Mary Jane Santiago and Jovelyn Traje. On the other hand, the following terminated CGM employees were able to secure loans: Richard Bernardo, Agnes Patrocinio, Irene Patrocinio, Willianie Patrocinio, Corazon Sahagun and Fernando Sunga. The City Government of Manila issued a certification that these names do not belong to any of the employees of the said agency.

Additionally, it was discovered that the specimen signatures of the individuals who purportedly endorsed the membership applications were not found in the list of authorized endorsing officials of the City Government of Manila. The names of the fictitious endorsers were the following: Alfredo Bernabe, Carlos dela Fuente, Ernesto Guevarra, Cesar P. Ocampo, Ruben Ramos, Alicia V. San Jose, Armando C. Toribio, Anselmo T. Trinidad, Antonio T. Villanueva and Oscar Villarama. The City Personnel Office confirmed that endorsing officials have never been employed by the CGM.

After examining the documents and records, such as the specimen signatures of endorsing officials, membership and loan application forms and service records, the IASG concluded that the processor and the official tasked to review his output failed to detect the apparent defects in the supporting documents used to create membership records and policy contracts. Hence, membership records were created in the database and policy contracts were issued in favor of the fictitious and separated CGM employees, which became the basis for granting of unauthorized loans.

Based on these findings, in a Memorandum dated May 29, 2006, Manalo was directed to submit an explanation under oath why he should not be charged administratively for his role in the creation of spurious membership records and policy contracts. In a notarized letter dated June 6, 2006, Manalo explained that the “said policy contracts were issued by me because when I processed the applications, I had checked the specimen signatures of the then endorsing officer and when all the documents were in order, I caused to be issued (sic) the contract. As far as I am concerned, I was just doing my job as stated in the charter of commitment...and doing it in good faith...”

Finding no merit in the explanation, Manalo was formally charged on August 29, 2007 with Serious Dishonesty, Grave Misconduct and Gross Neglect of Duty, as follows:

‘In various occasions in July 2004, Respondent, using his operator Code ‘A6HT’ and terminal ID ‘A8GJ’ created policies and membership records for the following individuals, making it appear that they were employed by the City Government of Manila at the time of the creation of the policy records when in fact, they were not...

‘x x x

‘Respondent, using his operator code and terminal ID also created new policies for the following individuals, making it appear that they were currently employed by the City Government of Manila at the time of the creation of their new policies when in fact they were already separated from the service...

‘x x x

‘Respondent also used or allowed others to use his terminal ID in creating new policies for the following individuals, making it appear that they were still employed by the City Government of Manila at the time of the creation of their policies when in fact they were already separated from the service...

‘x x x

‘The said creation of policies was based on falsified documents, unsubstantiated by appointment papers and plantilla as required under the existing rules and regulations for creation of Member’s Service Profile (MSP);

‘The said creation of policies and membership records paved the way for the immediate granting of loans to the fictitious and separated government employees...

‘x x x

‘The fraudulent scheme of creating policies and membership records for fictitious and separated government employees to make them qualify for the System’s loan program caused the System to incur a loss of approximately Php621,165.00.

‘Respondent’s knowing, intentional, and malicious participation in the said fraudulent scheme is contrary to laws, existing GSIS rules and regulations, morals, good customs and public policy.’

During the hearing of the case, the prosecution showed that the access/operator code “A6HT” and terminal ID “A8GJ” issued to appellant Manalo were used to create membership records and policy contracts for separated or fictitious employees of CGM which resulted in the grant of several spurious loans. In support of the same, the following witnesses were presented:

NAME

POSITION

Bernadette Flores

Chief Executive Officer, Internal Audit Service Group (IASG)

Alex B. Alba

Computer Operator, Administrative Division, City Treasurer's Office, City Government of Manila

Reynaldo V. Gatchalian

Assistant Department Head III, City Government of Manila

Ma. Ethelda A. Antonio

Manager, Systems Administration and Database Department

Emerlinda Loreda

Division Chief III, Records Management Division I

Grace Navalta

Former Division Chief, Manila District Office

On the other hand, Manalo was the only witness for his defense. He alleged that he had been with the GSIS for 31 years and denied that he was the reason for the anomalous creation of membership records and electronic policies.

In a Decision[5] dated August 12, 2008, former GSIS President and General Manager Winston F. Garcia found Manalo guilty of Serious Dishonesty and Grave Misconduct and imposed upon him the penalty of dismissal from the service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and the perpetual disqualification from re-employment in the government service.

The motion for reconsideration filed by Manalo was denied by the GSIS in its Resolution[6] dated June 2, 2009.

On July 14, 2009, Manalo appealed the said GSIS Decision and Resolution to the Commission.[7]

Ruling of the Government Service Insurance System

In its August 12, 2008 Decision as adverted to above, the GSIS in finding respondent guilty of serious dishonesty and grave misconduct held that –

The resolution of the culpability of the respondent rests on the following: (1) whether Mr. Manalo's tale that he merely relied on the representation of his supervisors that the documents were in order in creating the membership records and the electronic policies inspires belief; and (2) if not, whether said creations of membership records and the electronic policies leading to unlawful grant of loan constitute serious dishonesty, grave misconduct and/or gross neglect of duty.

The prosecution adduced substantial evidence that respondent was guilty as charged.

First, Mr. Manalo's defense of reliance on the say so [sic] of his supervisors is not believable. In respondent's Letter-Explanation to the Show Cause Memorandum x x x, in his Answer x x x, and in his testimony x x x, he incorporated as part of his evidence the 'Additional Notes to the Detailed Procedures of the Manila District Office (MDO),' signed by Mesdames Santos and San Miguel and prepared by Ms. Gloria C. Zuniga from the IASG. Said guidelines make clear that the processors, such as respondent, receive the supporting documents and on the bases [sic] of said documents, create the membership records and electronic policies. After the creation of the membership records, only then are the documents forwarded to the Section Chief for review and the policies printed. It must be noted that the granting of the loans depends on the electronic data in the membership records and not whether the policy contract was released. Pertinent portion is quoted:

3. Forward AFs [Application Forms] without Policy Nos[.] to the Membership Department on the second floor

for processing. x x x

4. Distribute the AFs among the personnel for the creation/issuance of a policy record performing the following procedures:

- Require the following source documents:
- MIS [Membership Information Sheet]/IMI [Membership Information]
- Service Record (SR)
- Appointment papers
- Plantilla

Examine and evaluate if the submitted source documents are complete, authentic and in order; if the signatories are the authorized officials and if the endorsing officials are complete and their signatures authentic based on their specimen signatures on file. (Every 6 months, the specimen signature forms are required to be reviewed by the authorized signatories.)

The SR/appointment/plantilla, although not original may be accepted as long as it is a certified true copy as certified by a duly authorized official.

If all are found to be in order, execute the following steps:

- Create a policy record and assign a policy number
- If with number print MAIP and attach to the supporting documents
- Forward all the above documents to the Section Chief (SC) for review and if in order, the policy contract may be printed. The SC or Division Chief signs on Policy Contract.

Thus, from these procedures, it is clear that it was respondent who had the initial obligation to evaluate the supporting documents. From this, it is clear that he cannot now foist the blame on his supervisors and hold them accountable for his failure to perform his job.

Second, the defects in the supporting documents were patent. Considering the 31 years of respondent in the GSIS, he should have been able to easily spot these defects. In respondent's Reply to the show-cause memorandum, he specifically stated that he examined the specimen signatures of the endorsing officers in the specimen signature cards on file with the GSIS. x x x

x x x x

There was no way that these defects could have been overlooked in these separate instances, had there been even a cursory check with the records of purported employees of the CGM. The non-detection in so many instances leads to the conclusion that there was no intention at all to check the records.

In the case of *Corpuz v. Ramite*[r]e,[8] dishonesty is defined as a

‘disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.’

In this case, considering Mr. Manalo's 31 years in the service, the patent defects of the documents; and that he created these fictitious records, there is more than substantial evidence indicating that he knew he was creating fictitious membership records and electronic policies. By the creation of said data, he made it appear that said employees were government employees when they in fact, were not. The proximity of account creations and the grant of loans moreover shows the tight relationship between the two; the creation was the vital means to the fraudulent grant of loans.

This brings us to the charge of grave misconduct. The Supreme Court, in the case of *Vertudes v. Buenaflor and Bureau of Immigration*,^[9] ruled as follows:

Misconduct has been defined as an intentional wrongdoing or deliberate violation of a rule of law or standard of behavior, especially by a government official. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest in a charge of grave misconduct. Corruption, as an element of grave misconduct, consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and rights of others. An act need not be tantamount to a crime for it to be considered as grave misconduct as in fact, crimes involving moral turpitude are treated as a separate ground for dismissal under the administrative code.

As adverted, Mr. Manalo's exploit was an intentional wrongdoing. His act of taking advantage of his position to create these fictitious membership records and electronic policies by itself, constitute grave misconduct. It is an offense that becomes far worse when considered that he created the same fictitious records to pave the way to the perpetuation [sic] of a series of fraud on the pension fund.

WHEREFORE, the Government Service Insurance System finds respondent Rogelio F. Manalo, guilty of Serious Dishonesty and Grave Misconduct. He is meted the penalty of DISMISSAL 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.^[10] (Emphasis in the original)

Ruling of the Civil Service Commission

In an October 19, 2010 Decision,^[11] the CSC affirmed respondent's dismissal from the GSIS. It held:

The issue to be resolved is whether the GSIS Decision finding Manalo guilty of Serious Dishonesty and Grave Misconduct and imposing upon him the penalty of dismissal from the service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and the perpetual disqualification from re-employment in the government service is proper.

Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive or betray and an intent to violate the truth.

x x x x

On the other hand, the Commission defined the offense of Grave Misconduct as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer x x x.

It must be emphasized that the quantum of evidence required in administrative proceedings is substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.

In this case, there is substantial evidence to find Manalo guilty of Serious Dishonesty and Grave Misconduct.

As a membership processor, Manalo was tasked to thoroughly check the completeness of the documents submitted to support membership application and verify the authenticity of the signatures of the authorized officials before creating an applicant's membership record and issuing a policy contract.

Contrary to his sworn duty, Manalo deliberately used his assigned access/operator code "A6HT" and terminal ID "A8GJ" to process the membership records and policy contracts of fictitious and terminated CGM

employees resulting in several unauthorized loan grants to the prejudice of GSIS Fund. As found by the prosecution, the said creation of policies was based on falsified documents, unsubstantiated by appointment papers and plantilla as required under the existing rules and regulations for creation of Member's Service Profile (MSP). It is highly unlikely that Manalo who has served the GSIS for 31 years failed to notice that the names of the applicants and the endorers were fictitious while the other applicants were no longer connected with the City Government of Manila.

Manalo's act of processing membership records and policy contracts caused the immediate granting of loans to several fictitious and separated CGM employees bearing the following names:

x x x x

At this point, Manalo is reminded of the gravity of his misdeed. His act of using his position to create spurious membership records and policy contracts caused the loss of GSIS funds. Said funds belong to its members who are government employees. Consequently, all government employees were prejudiced by the wrongdoing of Manalo.

With respect to the imposable penalty, Sections 2 (a) and 3 of CSC Resolution No. 06-0538 dated April 4, 2006 (Rules on the Administrative Offense of Dishonesty) provide, as follows:

'Section 2. Classifications of Dishonesty. – The classification of the offense of Dishonesty and their corresponding penalties are as follows:

'a. Serious Dishonesty punishable by dismissal from the service

'x x x

'Section 3. Serious Dishonesty. – The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Serious Dishonesty:

'x x x

'b. The respondent gravely abused his authority in order to commit the dishonest act.

'x x x

'd. The dishonest act exhibits moral depravity on the part of the respondent.

'e. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment.'

While Section 52 A (3) of the Uniform Rules on Administrative Cases in the Civil Service[12] provides that the principal penalty for the offenses of Grave Misconduct is dismissal from the service, as follows:

'Section 52. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service:

'A. The following are grave offenses with their corresponding penalties:

'x x x

'3. Grave Misconduct

1[st] offense – Dismissal

'x x x

'Section 55. Penalty for the Most Serious Offense. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.'

In sum, the Commission finds the GSIS Decision finding Manalo guilty of Serious Dishonesty and Grave

Misconduct and imposing upon him the penalty of dismissal from the service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and the perpetual disqualification from re-employment in the government service, proper.

WHEREFORE, the appeal of Rogelio F. Manalo, former Computer Operator IV, Government Service Insurance System (GSIS), is hereby DISMISSED. Accordingly, the Decision dated August 12, 2008 finding Manalo guilty of Serious Dishonesty and Grave Misconduct and imposing upon him the penalty of dismissal from the service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and the perpetual disqualification from re-employment in the government service, and the Resolution dated June 2, 2009 denying his motion for reconsideration, are AFFIRMED. The accessory penalty of bar from taking any civil service examination in the future is likewise imposed upon him.[13] (Emphasis in the original)

Respondent moved to reconsider, but, finding no new evidence or convincing argument to reverse its original findings, the CSC held its ground via a February 1, 2011 Resolution.[14]

Ruling of the Court of Appeals

Respondent filed a Petition for Review before the CA, docketed as CA- G.R. SP No. 118452, contesting the CSC's findings and insisting he is innocent. On March 21, 2013, the CA issued the assailed Decision, decreeing thus:

Petitioner[15] contends that he cannot be held guilty of serious dishonesty, grave misconduct and gross neglect of duty because his duty as computer operator was purely ministerial in character; that he acted in good faith in evaluating the membership applications, their supporting documents and signatures of authorized officials; that he had no participation in the issuance of the alleged fictitious GSIS policy contracts, which had already been previously scrutinized and approved by his immediate supervisors, and the subsequent granting of the anomalous loan applications/transactions.

Petitioner's contentions are partly meritorious. x x x x

In this case, there is no doubt that petitioner committed misconduct in his duties as computer operator/membership processor when fictitious persons and persons already separated from the service were entered into the membership database and issued membership records. However, after a careful review of the records, the Court finds that petitioner's misconduct cannot be characterized as grave. No substantial evidence was adduced to support the elements of corruption, or clear intent to violate the law, or flagrant disregard of established rules, that must be present to characterize the misconduct as grave.

Foremost, petitioner's primary duty was to process membership applications forms submitted by various government agencies, i.e., to examine and evaluate if supporting documents, such as service records, appointment papers and plantilla positions, are complete, authentic and in order; and to verify signatures of authorized endorsing officials based on their specimen signatures on file. As such, his duties were ministerial in character. There is nothing in the records to show that petitioner, acting alone and with flagrant intent to disregard procedural guidelines, arbitrarily approved membership applications or issued contract policies to fictitious persons and separated government employees. This Court notes that prior to the issuance of GSIS contract policies, each membership application is subjected to close scrutiny and verification not just by petitioner alone as a membership processor, but by several department personnel and chief officers of GSIS as shown in the Additional Notes to the Detailed Procedures of the Manila District Office (MDO). Based on the outlined procedure, membership application forms are submitted by various government agencies to the GSIS membership servicing unit. If all supporting documents to the membership application are found to be in order, the membership processor, using the user ID and terminal ID, assigns a policy number and creates a membership record in the database. All supporting documents are then forwarded to the Section or Division Chief for review and if in order, the policy contract is issued.

Second, respondent GSIS failed to present substantial evidence to prove that petitioner directly participated in the approval and grant of unauthorized or spurious loans, or that he connived with a co-employee to effect the same. Even if GSIS policy contracts were indeed issued to fictitious and/or separated government employees, the grant or approval of their loan applications was not necessarily automatic. It bears emphasis that requirements and procedural guidelines in the approval or grant of GSIS loan applications are completely separate and distinct from membership applications and issuance of policy contracts, and that petitioner's duties did not include approval of such loans. Again, this Court notes that in the Additional Notes to the Detailed Procedures of the Manila District Office (MDO), petitioner's supervisor and division chief admitted to an incident in the Manila District Office Membership Department when superiors directed the issuance of dummy policies and granted double

loans in favor thereof. Notwithstanding such admission, petitioner's actual participation in this anomalous scheme was never proven by GSIS.

Third, respondent GSIS failed to present substantial evidence to prove the element of corruption or that petitioner actually derived some benefit for himself or for another person, which directly resulted in financial losses for GSIS.

Anent the penalty to be imposed, petitioner's liability under the given facts only involves simple misconduct. Simple misconduct is a less grave offense and penalized by suspension for one (1) month and one (1) day to six (6) months for the first offense, and dismissal from the service for the second offense, under Section 52 (B) (2), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service. Section 54 (a) of the same law also provides that the minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present. In this case, considering petitioner's length of service of 31 years and that this is petitioner's first offense, the penalty of suspension for two (2) months shall be imposed upon him.

It is worthy to emphasize at this point that when a public officer or employee is disciplined, the object sought is not the punishment of that officer or employee, but the improvement of the public service and the preservation of the public's faith and confidence in the government. Petitioner is reminded that 'the Constitution stresses that a public office is a public trust and public officers must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives. These constitutionally-enshrined principles, oft-repeated in our case law, are not mere rhetorical flourishes or idealistic sentiments. They should be taken as working standards by all in the public service.'

WHEREFORE, the petition for review is PARTIALLY GRANTED. The assailed decision no. 100157 dated October 19, 2010 is AFFIRMED WITH MODIFICATION that petitioner Rogelio Manalo is found guilty of simple misconduct and is suspended from service for a period of two (2) months reckoned from the time his preventive suspension elapsed.

SO ORDERED.[16]

Petitioner moved to reconsider, but the CA remained unconvinced. Hence, the present Petition.

In an October 13, 2014 Resolution,[17] this Court resolved to give due course to the Petition.

Issues

Petitioner contends that –

I

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS REVERSIBLE ERROR IN PARTIALLY GRANTING THE RESPONDENT'S PETITION ON THE GROUND THAT THERE WAS NO SUBSTANTIAL EVIDENCE ADDUCED TO SUPPORT THE EXISTENCE OF THE ELEMENTS OF

CORRUPTION, OR CLEAR INTENT TO VIOLATE THE LAW, OR FLAGRANT DISREGARD OF ESTABLISHED RULES, WHICH CHARACTERIZES RESPONDENT'S MISCONDUCT AS GRAVE.

II

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS REVERSIBLE ERROR IN FINDING RESPONDENT LIABLE FOR ONLY SIMPLE MISCONDUCT AND IMPOSING THE PENALTY OF SUSPENSION FOR TWO (2) MONTHS.

III

THE HONORABLE COURT OF APPEALS ERRED IN NOT ACCORDING RESPECT AND CREDIT TO THE FINDINGS OF THE GSIS AND THE CSC, WHICH ARE SUPPORTED BY MORE THAN THE REQUIRED SUBSTANTIAL EVIDENCE.[18]

Petitioner's Arguments

Praying that the assailed CA dispositions be reversed and set aside, and that its August 12, 2008 Decision together with the CSC's October 19, 2010 Decision be reinstated, GSIS argues in its Petition and Reply[19] that contrary to the assailed CA pronouncement, there is substantial evidence to find respondent guilty of corruption and grave misconduct, and not mere simple misconduct; that the evidence – particularly the Additional Notes to the Detailed Procedures of the Manila District Office per Manual of Operations for the Creation/Issuance of the Policy Record by the Membership Department, MDO During the Granting of the Emergency Assistance Loan (ELA)/Summer One-Month Loan (SOS)/Enhanced Salary Loan (ESL) from January 1, 2004 to June 30, 2005[20] (Additional Notes) – shows that it was part of respondent's assigned duties and responsibilities to examine and determine that the documents submitted in support of the membership applications are complete, authentic, and in order before the members' policy records can be created – that is, respondent must first examine and evaluate from the source documents (Membership Information Sheet, Service Record, appointment papers, and plantilla) if the signatories are authorized officials and if endorsing officials are complete and their signatures are authentic based on their specimen signatures on file; that his admitted failure to perform his duty and mere reliance on the examination supposedly made by his supervisors show that he intentionally violated the rules and procedure required, resulting in the creation of bogus membership profiles and policies based on incomplete, forged, and fake applications and source documents submitted, as well as the consequent release of loans to bogus members; that respondent's claim of reliance upon his superiors' examination and pre-approval of the applications and source documents is not a valid defense, because this pre-examination and pre-approval is not part of the procedure laid down in the Additional Notes – on the contrary, respondent as membership processor is the "first evaluator" of the applications and source documents, the "first line of defense against fraudulent applications"; that respondent's supervisors or superiors, Minaflor Santos (Santos) and Susan San Miguel (San Miguel), have been held accountable for gross neglect of duty; and that it is not necessary to prove by direct evidence that respondent benefited directly from the grant of dubious loans.

Finally, petitioner submits that the findings of the GSIS and CSC should be affirmed, claiming that it is a well-entrenched rule in this jurisdiction that findings of fact of administrative agencies based on substantial evidence are respected and deemed conclusive, as they possess the relevant expertise and are in the best position to assess the probative value of the evidence presented before them.

Respondent's Arguments

Pleading affirmance of the assailed judgment in his Comment,[21] respondent claims that he is a victim of "institutional injustice" within the GSIS; that his case is an attempt to mask the activities of a syndicate that extends loans to "ghost GSIS policy holders" and he is being made a scapegoat of the "grand conspiracy;" that he sought an investigation into the activities of the syndicate, but his plea fell on deaf ears; that he had no hand in the

“pre-processing of the GSIS application for membership prior to policy creation, as well as, the processing of the anomalous loan transactions extended to GSIS ghost policy holders,” which seems to have coincided with the 2004 elections – indicating that the money might have been used in said presidential elections; that the GSIS Decision is thus biased and not based on evidence; that his superiors Santos and San Miguel retired with full benefits in the millions of pesos, while he is being made the victim of a cover-up; that contrary to petitioner’s claim, when the documents reach his office, “the same are deemed completed staff work (CSW) from his immediate superiors”; and that the Additional Notes – which he submitted as part of his evidence (Exhibit “4-D”) – were not considered in his favor, in that they would show that he followed strictly the procedure laid out therein.

Our Ruling

The Petition must be granted.

The discrepancy between the conclusions of the petitioner and the CSC on the one hand, and the CA on the other, requires the Court to make a thorough review of the case. Particularly, the CA appears to have overlooked undisputed facts which, if properly considered, would justify a different conclusion.

While petitioner and the CSC found that respondent was guilty of serious dishonesty and grave misconduct for his failure to perform his task of checking the completeness and authenticity of the application forms and supporting documents submitted and for deliberately using his access/operator and terminal codes to process fake membership records and create policy contracts – which thus led to the granting of anomalous loans to non-existent GSIS members, the CA held that respondent’s task of creating an applicant’s policy contract is purely ministerial in that the application forms and supporting documents that are forwarded to him have been previously pre-processed, scrutinized, and verified by several GSIS personnel and officers pursuant to the Additional Notes, and he had no power to arbitrarily approve these application forms or contract policies. The CA added that there is no evidence to prove that respondent directly participated in the approval and grant of spurious loans to these fake members, or that he benefited from these loans; his only fault is that “fictitious persons and persons already separated from the service were entered into the membership database and issued membership records.”

The resolution of the case lies in a better understanding of respondent’s responsibilities and tasks as set forth in the Additional Notes, which he introduced and forms part of his evidence below:

ADDITIONAL NOTES TO THE DETAILED PROCEDURES OF THE MANILA DISTRICT OFFICE PER MANUAL OF OPERATIONS FOR THE CREATION/ISSUANCE OF THE POLICY RECORD BY THE MEMBERSHIP DEPARTMENT, MDO DURING THE GRANTING OF THE EMERGENCY ASSISTANCE LOAN (ELA)/SUMMER ONE-MONTH LOAN (SOS)/ENHANCED SALARY LOAN (ESL) FROM JANUARY 1, 2004 TO JUNE 30, 2005

- After about five months in updating members’ records and stoppage of loans processing, GSIS granted the Emergency Assistance Loan (ELA) to its members in October, 2003 to February, 2004. Before the ELA applications could all be processed/granted, Management offered the SOS Loan around March 15, 2004 and shortly after, the ESL by May, 2004. Majority of the MDO members availed of these loans resulting to [sic] voluminous transactions which necessitated the engagement of the MDO Membership Department personnel at the Metropolitan Office to serve as Members Relations Unit (MRU) on a rotation basis with each employee rendering MRU duties ranging from 3 hours to half a day.
- The procedures followed by the Membership Department acting as MRU may be summarized as follows:
 - Receive from the Liaison Officer/s the application forms (AFs) and stamp date of receipt.
 - Personnel from Loans pick up/forward Loan AFs to the MDO Cluster Unit for loan granting/check printing

and forward Loan AFs for updating to Membership Department, if necessary.

- Forward AFs without Policy Nos. to the Membership Department on the second floor for processing.

Note: At the time, Membership Department personnel had no particular/specific loading but were doing work using the 'bayanihan style'.

- Distribute the AFs among the personnel for the creation/issuance of a policy record performing the following procedures:

- Require the following source documents:

- > MIS/IMI
- > Service Record (SR)
- > Appointment papers
- > Plantilla

- Examine and evaluate if the submitted source documents are complete, authentic and in order; if the signatories are the authorized officials and if the endorsing officials are complete and their signatures authentic based on their specimen signatures on file. (Every 6 months, the specimen signature forms are required to be renewed by the authorized signatories.)

The SR/appointment/plantilla, although not original may be accepted as long as it is a certified true copy of the original as certified by a duly authorized official.

- If all are found to be in order, execute the following steps:

- o Create a policy record and assign a policy number;
- o If with number, print MAIP and attach to the supporting documents

- Forward all the above documents to the Section Chief (SC) for review and if in order, the policy contract may be printed. The SC or Division Chief signs on Policy Contract.

Note: Not all the time the policy contract is printed immediately after creation of a policy record unless a member requests for one. Most of the time, policy contracts are printed in batch and the accredited LO comes to pick up said policy contracts. Releasing of Policy Contracts is basically done thru LOs who acknowledge receipt of said policies per Logbooks although a member may also receive it directly.

- There was a time when the MDO Membership Dept. was told by their superiors to drop everything and issue Dummy Policies with Dummy Date of Birth to facilitate the posting of unmatched payments from different agencies. There were occasions when double loans were granted thru such Dummy Policies.

- Although we were supposed to be premium based already, we went thru abnormal situations whereby a newly issued policy contract could not be verified then if premiums were paid in fact. The AAIP facility became available only in late Sept.-Oct., 2004.

It may be of interest to note that at one time while processing applications requiring the creation/issuance of a policy record for a group of 4 supposedly employees of the Manila City Hall, the Division Chief being interviewed went out of her way to visit the Manila City Hall Office to inquire and verify if said employees who submitted complete supporting documents were bonafide (sic) employees of the MCH and they were all proven fictitious and all the documents had spurious signatures. This was properly reported to the MDO Manager at the time.

Noted by Interviewees:

(signed)

MINAFLOR SANTOS

Division Chief
Membership Division, MDO

(signed)
SUSAN SAN MIGUEL
Section Chief
Membership Division, MDO[22]

Thus, it appears that respondent, as membership processor at the GSIS's Membership Department I (Manila), was required – upon being given Application Forms for Emergency Assistance Loan (ELA), Summer One-Month Loan (SOS), or Enhanced Salary Loan (ESL) together with the accompanying required source documents (Membership Information Sheet, Service Record, Appointment Paper, and Plantilla) – to “examine and evaluate if the submitted source documents are complete, authentic and in order; if the signatories are the authorized officials and if the endorsing officials are complete and their signatures authentic based on their specimen signatures on file.” Thereafter, if he finds these documents to be in order, then he shall create a policy record, assign a policy number thereto, and then forward all the documents to the Section Chief (SC) for review. In other words, it was respondent's task to determine the completeness and authenticity of the source documents submitted to him, before he can create a policy record which the GSIS member-applicant shall use to secure ELA, SOS, and/or ESL.

However, it turned out that respondent created policy records of fictitious and previously terminated employee-applicants from the City Government of Manila, totaling seventeen (17),[23] and as a result, P621,165.00 worth of loans were released and lost through these irregular policies. These policies were traced to respondent's computer access/operator code “A6HT” and terminal ID “A8GJ” by the GSIS's Internal Audit Service Group (IASG), meaning that it was respondent who processed and created them based on source documents that were forged, questionable, incomplete, and/or not signed by the authorized endorsing officials of the City Government of Manila.[24] Without belaboring the point, respondent was grossly negligent in evaluating and authenticating the source documents accompanying 17 application forms filed by fictitious individuals or separated employees of the Manila city government; the mere fact that respondent failed to discover in the first instance that the applicants were fictitious or have been separated from office at once qualifies his negligence as gross. All that was required in determining the identities of these applicants and authenticity of their respective applications and supporting documents was a simple and effortless coordination with the Manila city government, in addition to an examination of the accompanying source documents and referring to the list of authorized endorsing and approving officials and their specimen signatures, and other supporting and authenticating documents, submitted by the Manila city government.

Respondent justifies his mistake by claiming that he processed and created the spurious policies relying on the previous completed work of his superiors, who he claims were part of a syndicate out to defraud the GSIS, and that he was being made the sacrificial lamb in this nefarious scheme. The Additional Notes, however, do not indicate that before the application forms are submitted to respondent for processing, they have been pre-screened or pre-processed by his superiors; on the contrary, they state that these forms are brought to him for updating and processing in the first instance immediately upon seeing that the application forms are not covered by corresponding policy numbers. They instead show that upon receiving these application forms, respondent shall secure or require the submission of the source documents (Membership Information Sheet or Membership Information, Service Record, Appointment Papers, and Plantilla) which he shall then examine and evaluate, making sure that they are complete, authentic, and in order – in other words, he must make sure that the applicants are indeed employed by the Manila city government and are incumbent members of the GSIS who are thus eligible to apply for the loans being offered. Upon determination that the documents are in order, he shall then create a policy record and assign a policy number in favor of the applicant, and then forward his work to his

Section Chief for review.

The evidence on record, which respondent does not dispute, shows that apart from failing to discover at once that the loan applicants were fictitious individuals and/or separated employees of the Manila city government, respondent relied on source documents that were signed, certified and/or issued by a) unidentified individuals, b) individuals who were not even authorized signatories or representatives of the Manila city government in the first place, and c) individuals purporting to sign in behalf of authorized signatories but whose names and positions were not indicated; application forms were not backed by the corresponding plantilla; and signatures of officers appearing on source documents were materially different from those in the specimen signature cards submitted by the city government.[25] All these indicate that respondent failed to perform his duty, not only once or twice, but repeatedly, and that he was grossly negligent for ignoring the patent irregularities in the source documents submitted to him. This is downright incompetence and carelessness on respondent's part; an abject indifference to his fundamental duties and responsibilities; a complete abdication of duty with regard to the 17 accounts.

If respondent believed that there was a syndicate operating within the GSIS out to defraud the System, then it was more incumbent upon him to have performed his duties with more care and circumspect, knowing that the syndicate was ready to take advantage of every opportunity. Instead, he was repeatedly extremely careless and blind to the most glaring and patent irregularities in the source documents before him. As a result, the GSIS lost a large sum from these conduit policies. One might be tempted to believe that by his actions, respondent is part of the alleged conspiracy he now condemns, though the evidence is insufficient to generate such a view. Even then, the Court wonders how such a patent irregularity could have escaped notice by respondent's superiors, who are presumed to have reviewed his work as a matter of course pursuant to the procedure laid down in the Additional Notes.

For failing to perform his duty which thus caused the creation of 17 anomalous policy records which were in turn used to defraud GSIS of P621,165.00, respondent is guilty not of grave misconduct or dishonesty, but gross neglect of duty which is punished with dismissal under Rule 10, Section 46(A)(2) of the Revised Rules of Administrative Cases in the Civil Service.[26]

As compared to Simple Neglect of Duty which is defined as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference, Gross Neglect of Duty is characterized by want of even the slightest care, or by conscious indifference to the consequences, or by flagrant and palpable breach of duty.

Misconduct, on the other hand, is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.

Finally, Dishonesty is defined as a disposition to lie, cheat, deceive, or defraud; unworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive, or betray.

Needless to say, these constitute conduct prejudicial to the best interest of the service as they violate the norm of public accountability and diminish – or tend to diminish – the people's faith in the Judiciary.

x x x x

Under the Revised Rules of Administrative Cases in the Civil Service (RRACCS), Gross Neglect of Duty, Grave Misconduct, and Serious Dishonesty are grave offenses which merit the penalty of dismissal from service even for the first offense. Corollary thereto, such penalty carries with it the following administrative disabilities: (a) cancellation of civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; (c) perpetual disqualification from reemployment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution; and (d) bar from taking civil service examinations.[27] (Emphasis supplied)

“Gross neglect of duty or gross negligence ‘refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property.’ It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.”[28]

Gross neglect of duty refers to negligence that is characterized by glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to take on their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable. Gross inefficiency is closely related to gross neglect as both involve specific acts of omission on the part of the employee resulting in damage to the employer or to the latter's business.[29] (Emphasis supplied)

There is nothing wrong in finding respondent guilty of gross neglect when the charge against him was for dishonesty or grave misconduct; the allegations in the August 29, 2007 Formal Charge also make out a case for gross neglect of duty, as in fact he was also so charged.[30] “[W]hat is controlling is the allegation of the acts complained of, not the designation of the offense.”[31] So long as respondent was given the opportunity to confront the allegations against him, which in fact he did, there should be no issue in this regard.

With the foregoing view taken, the Court finds no need to further address the other issues raised by the parties.

WHEREFORE, the Petition is GRANTED. The March 21, 2013 Decision and August 30, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 118452 are REVERSED and SET ASIDE. Respondent Rogelio F. Manalo is ordered DISMISSED from the Government Service Insurance System for gross neglect of duty, with cancellation of civil service eligibility; forfeiture of retirement and other benefits, except accrued leave credits, if any; perpetual disqualification from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution; and bar from taking civil service examinations.

SO ORDERED.

Brion, (Acting Chairperson),[**] Mendoza, and Leonen, JJ., concur.
Carpio, J., on official leave.

[**] Per Special Order No. 2374 dated September 14, 2016.

[1] Rollo, pp. 10-39.

[2] Id. at 41-57; penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Magdangal M. De Leon and Stephen C. Cruz.

[3] Id. at 59-60.

[4] Herein respondent.

[5] Rollo, pp. 193-218.

[6] Id. at 219-222; penned by then GSIS President and General Manager Winston F. Garcia.

[7] Id. at 227-230.

[8] 512 Phil. 506 (2005).

[9] 514 Phil. 399 (2005).

[10] Rollo, pp. 205- 218.

[11] Id. at 223-235.

[12] Or Resolution No. 99-1936 dated August 31, 1999.

[13] Rollo, pp. 230-235.

[14] Id. at 236-240.

[15] Herein respondent.

[16] Rollo, pp. 51-56.

[17] Id. at 315-316.

[18] Id. at 26-27.

[19] Id. at 300-313.

[20] Id. at 88-89.

[21] Id. at 278-292.

[22] Id. at 88-89.

[23] Id. at 196-198.

[24] Id. at 208-215.

[25] Id. at 208-215.

[26] Section 46. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following grave offenses shall be punishable by dismissal from the service:

x x x x

2. Gross Neglect of Duty;

x x x x

[27] Office of the Court Administrator v. Viesca, A.M. No. P-12-3092, April 14, 2015, 755 SCRA 385, 395-397.

[28] Office of the Ombudsman v. de Leon, 705 Phil. 26, 37-38 (2013), citing Fernandez v. Office of the Ombudsman, 684 Phil. 377, 389 (2012) and Philippine Retirement Authority v. Rupa, 415 Phil. 713, 720-721

(2001).

[29] Guerrero-Boylan v. Boyles, 674 Phil. 565, 575-576 (2011).

[30] CA rollo, p. 79.

[31] Philippine Amusement and Gaming Corporation v. Marquez, 711 Phil. 385, 397 (2013).

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