

DELILAH L. SOLIVA, PETITIONER, VS. DR. SUKARNO D. TANGGOL, IN HIS CAPACITY AS CHANCELLOR OF MINDANAO STATE UNIVERSITY – ILIGAN INSTITUTE OF TECHNOLOGY (MSU-IIT), RESPONDENT.

G.R. No. 223429. January 29, 2020

Ponente: CARANDANG, J.

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CARANDANG, J.:

Assailed in this Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court is the Decision[2] dated October 2, 2015 and Resolution[3] dated February 9, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 137277. The CA affirmed the Decision[4] dated February 13, 2014 of the Civil Service Commission (CSC) finding petitioner Delilah L. Soliva (petitioner) guilty of Serious Dishonesty and imposed upon her the penalty of dismissal from service with all accessory penalties of cancellation of eligibility, forfeiture of retirement benefits (except terminal leave benefits and personal contribution to the GSIS), perpetual disqualification from holding public office, and bar from taking civil service examinations.

Facts of the Case

Petitioner, a faculty member of the School of Computer Studies of the Mindanao State University - Iligan Institute of Technology (MSU-IIT), together with the other members of the Board of Canvassers (BOC), was charged with Gross Dishonesty and Conduct Prejudicial to the Best Interest of the Services for rigging the result of the Vice Chancellor for Academic Affairs (VCAA) straw poll.

It was alleged that on October 6, 2010, when the votes were canvassed, petitioner was added as member of the BOC.[5] She was tasked to read the ballots. There were eight members of the BOC present at the canvassing. On petitioner's left side was Meles Castellano (Castellano), who wrote the count on the tally sheet; on her right were Sittie Sultan (Sultan) and Mosmera Ampa (Ampa), watchers; standing behind her were Irene Estrada (Estrada) and Soraida Zaman (Zaman); in charge of the tally board was Michael Almazan (Almazan); and sitting beside Almazan was Ombos Ariong (Ariong), whose function was to repeat the name being read out by petitioner. The canvassing of ballots was done by sector. First to be canvassed was the students' ballot box, followed by the administrative staff ballot box, and last was the faculty ballot box.[6]

At that time, Dr. Olga Nuñez (Dr. Nuñez), the Chairperson of the Search Committee, was on official travel to Manila. Professor Jeoffrey Salgado (Prof. Salgado), the Chairman of the BOC, was also not present during the canvassing as he allegedly had a class.[7]

During the canvassing, the white board and tally sheet tabulations were consistent. The October 6 canvassing showed the following results:[8]

Candidate

Faculty

Staff

Students

Total

Dr. Feliciano Alagao

63

31

17

111

Dr. Jerson Orejudos

227

4

11

242

Dr. Rhodora Englis

31

10

23

64

After the canvassing, the ballots were placed inside their respective boxes sealed with plastic tape. Petitioner and Sultan affixed their signatures over the plastic tape. Estrada kept the ballot boxes.[9] However, on October 7, 2010, Prof. Salgado asked that the ballot boxes be brought to him. Then he affixed his signature over the tape sealing the boxes.[10]

The result of the October 6, 2010 canvassing was not officially published or divulged to the public.[11]

On October 14, 2010, Dr. Nuñez sent a communication to Dr. Marcelo P. Salazar, then Chancellor of MSU-IIT, about the alleged irregularities in the canvassing of votes for VCAA held on October 6, 2010.[12] Dr. Nuñez stated that Dr. Rhodora Englis (Dr. Englis), one of the candidates, texted Prof. Salgado questioning the integrity of the straw polls. Dr. Englis wanted a recount because she refused to believe she only received 31 votes from the faculty. In the letter, Dr. Nuñez stated that a recount was done on October 13, 2010 at 10 a.m. and another at 12 p.m., with the presence of watchers and the representatives of nominees. Petitioner was neither notified nor present because she was on official leave to India.[13] The October 13, 2010 re-canvassing showed disparity from the results of the October 6 canvassing. The October 13, 2010 recount showed the following results,[14] both in the 10 a.m. and 12 p.m. canvassing, viz.:

Candidate

Faculty

Staff

Students

Total

Dr. Feliciano Alagao

129

29

17

175

Dr. Jerson Orejudos

111

5

11

127

Dr. Rhodora Englis

81

11

23

115

After a formal investigation conducted by the Institute Formal Investigation Committee (IFIC),^[15] petitioner alone was found administratively guilty of Gross Dishonesty (with aggravating circumstance of habituality, it being her second offense) and was recommended to be dismissed from the service.^[16] Castellano, Estrada, Ariong, Sultan, Ampa, and Almazan were declared innocent for lack of evidence to prove direct participation or conspiracy with petitioner.^[17] The IFIC found that when the reading of the staff ballots was about to be completed, petitioner instructed Ampa and Sultan to bundle and staple the counted ballots in groups of 10. Since Ampa and Sultan were preoccupied with the task, they failed to counter-check petitioner's reading of the remaining staff ballots and the whole of the faculty ballots. Estrada, who stood behind petitioner, was also directed by petitioner to check the food for dinner. When she returned, the canvassing was already done. Almazan, Castellano, and Sultan testified that subsequent to the reassignment of the two watchers, petitioner's reading of the ballots was unusually quick and the name "Orejudos" was almost always successively called out by petitioner.^[18] The recount, in the presence of the nominees' respective watchers, showed an enormous difference in the faculty votes. Only 116 votes were credited to Dr. Jerson Orejudos (Dr. Orejudos).^[19]

The resolution of the IFIC was adopted in toto^[20] by respondent Dr. Sukarno D. Tanggol (Chancellor Tanggol), Chancellor of the MSU-IIT, who endorsed the same for approval to Dr. Macapano A. Muslim (Dr. Muslim), MSU-Marawi City President. Dr. Muslim, with the assistance of the Director of the Legal Services Division, recommended instead a penalty of six months suspension without pay.^[21]

On September 19, 2012, the MSU-Board of Regents (MSU-BOR) found petitioner not guilty in its Resolution No.

171, Series of 2012. The MSU-BOR voted as follows: 5 - GUILT HAS BEEN ESTABLISHED; 6 - GUILT HAS NOT BEEN ESTABLISHED; and 3 - ABSTAINED.[22]

The MSU-IIT, represented by Chancellor Tanggol, moved for reconsideration but the MSU-BOR denied the same in its Resolution No. 2, S. 2013.[23]

Chancellor Tanggol appealed[24] the MSU-BOR Resolution to the CSC arguing that: (1) there were no serious procedural lapses committed during the investigation;[25] (2) there was sufficient evidence to hold petitioner liable for gross dishonesty;[26] and (3) there was no violation of petitioner's constitutional right to speedy trial.[27]

Ruling of the Civil Service Commission

On February 13, 2014, the CSC granted Chancellor Tanggol's appeal, reversing Resolution No. 171, s. 2012 issued by the MSU-BOR.[28] It found petitioner guilty of Serious Dishonesty, the dispositive portion of the Decision reads:

WHEREFORE, the appeal of Dr. Sukarno D. Tanggol, Chancellor of the Mindanao State University- Iligan Institute of Technology (MSU-IIT), is GRANTED. Accordingly, Resolution No. 171, s. 2012 dated September 19, 2012 of the MSU-Board of Regents (BOR), exonerating Prof. Delilah L. Soliva for Gross Dishonesty is REVERSED. Soliva is hereby found GUILTY of Serious Dishonesty and meted the penalty of dismissal from the service with all accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, (except terminal leave benefits and personal contribution to the GSIS), perpetual disqualification from holding public office and bar from taking civil service examinations are deemed imposed.

Copies of this Decision shall be furnished the Government Service Insurance System (GSIS), Commission on Audit (COA-MSU-IIT) Office of the Ombudsman, and the Integrated Records Management Office (IRMO), this Commission for their appropriate action.[29]

The CSC gave greater evidentiary weight to the positive and corroborative declarations executed by Ampa, Almazan, Castillano, Ariong, and Sultan, rather than the bare denials of petitioner. It ruled that the scheme perpetuated by petitioner in assigning the watchers, Ampa and Sultan, to do another task, and directing Estrada to check the food for dinner, primarily facilitated the discrepancy in the results of the canvassing. The CSC further declared that petitioner failed to live up to the high degree of professionalism required of public officers. She intentionally strayed from performing her duties truthfully and honestly causing serious damages and prejudice to the government.

Petitioner moved for reconsideration[30] but it was denied in the Resolution dated August 18, 2014.[31]

Via Rule 43, petitioner elevated the case to the CA.

Ruling of the Court of Appeals

On October 2, 2015, the CA denied the petition and affirmed the CSC Decision.[32] The CA ruled that from the series of facts, it can be logically concluded that it was petitioner who deliberately manipulated the results of the October 6 canvassing to favor one candidate over the others. The circumstantial evidence showed that it was petitioner alone who was responsible for misreading the results during the October 6 canvassing.[33]

The CA found the following circumstantial evidence: a) the witnesses were one in saying that petitioner ordered Ampa and Sultan to group together and staple the ballots even, while petitioner was still reading the votes; b) the witnesses were also unanimous in identifying petitioner as the only person reading all the ballots; c) it was petitioner alone who had full control of the reading of the ballots; d) it was petitioner who announced the name of

Dr. Orejudos 242 times, albeit the votes for him only numbered 127; e) she announced the name of Dr. Feliciano Alagao (Dr. Alagao) 111 times and Dr. Englis 64 times only, when in fact each one got 175 and 115, respectively; f) she read the ballots quickly, while the designated watchers were preoccupied; g) she misread the names indicated in the ballots 100 times, strongly indicating that the erroneous results of the October 6 canvassing was not accidental, but intentional; and h) the October 6 canvassing results, which she participated in were substantially different from the two separate canvassing results on October 13, wherein she was not a participant.[34] The CA gave credence to the factual findings of the CSC. Anent petitioner's claim of denial of due process, the CA declared that petitioner was given the opportunity to present her own evidence, submit her motions, memoranda, and other papers, and actively participate in the cross examinations of the witnesses before the Investigating Committee, which means that the basic tenets of due process were complied with.[35] Administrative due process cannot be fully equated with due process in its strict judicial sense. It is enough that the party is given the chance to be heard before the case against him or her is decided.

Petitioner moved for reconsideration but her motion was denied in the Resolution[36] dated February 9, 2016 of the CA.

Hence, petitioner filed this Petition for review on Certiorari under Rule 45 on the following grounds:

-A-

THE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN RULING THAT PETITIONER DELIBERATELY MANIPULATED THE RESULTS OF THE OCTOBER 6, 2010 CANVASSING TO FAVOR ONE CANDIDATE OVER THE OTHERS.

-B-

THE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN HOLDING THAT THE SANCTITY OF BALLOTS AFTER THE OCTOBER 6 CANVASSING WERE PRESERVED CONSIDERING THAT THERE IS NO SHOWING THAT THE WITNESSES WHO TESTIFIED HAD ILL MOTIVE TO PUT PETITIONER DOWN.

-C-

THE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN RULING THAT PETITIONER SOLIVA WAS AFFORDED DUE PROCESS.

-D-

THE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN IMPOSING THE PENALTY OF DISMISSAL FROM OFFICE ON PETITIONER SOLIVA.[37]

Petitioner argues that it is impossible for her to have manipulated the October 6 canvassing considering that there were other members of the straw poll present and watching during the entire canvassing; she was included only as a member of the BOC on the same day of canvassing; and she had no intention to gamble her retirement benefits. Petitioner asserts that it is highly impossible for her to singlehandedly manipulate 236 votes without getting caught by any of the members of the straw poll present and watching the October 6, 2010 canvassing. It is unbelievable for Ampa and Sultan not to have seen the names being read by petitioner considering that there were only three names written in bold, large font letters.[38] Petitioner, likewise, points out the inconsistencies in the affidavits of Ampa and Sultan with the established factual circumstances of the case. Ampa and Sultan alleged in their affidavits that it was near the end of the counting of the administrative staff ballots that they were instructed by petitioner to arrange the ballots into groups of 10 and staple them together. During the formal hearing, however, Ampa testified that it was during the canvassing of the faculty votes when petitioner instructed her and

Sultan to arrange the canvassed ballots by 10 and staple it. Petitioner claims that it is important to know when she allegedly gave the instructions to arrange and group the read ballots in order to determine how many ballots are to be arranged, grouped, and stapled.[39] She also contends that the sanctity of the ballots after the October 6, 2010 canvassing was not preserved; hence, the authenticity and integrity of the ballots canvassed during the October 13, 2010 re-canvassing are questionable.[40] Petitioner claims that she was not afforded due process because: (1) she was not notified that a re-canvassing was to be conducted;[41] (2) she was not furnished a copy of the IFIC Resolution which was submitted to the MSU-President;[42] (3) she did not receive any paper, document, or any communication from the CSC when respondent appealed this case;[43] and (4) the CSC Decision was intentionally kept secret and was never released to petitioner by the Office of the Chancellor of MSU-IIT, until June 3, 2014.[44] Lastly, petitioner posits that the penalty of dismissal is too harsh for her "who is a widow, sickly, has served the MSU-IIT for more than 40 years and has followed the order of the Chair of BOC to canvass the ballots." [45]

In his Comment,[46] Chancellor Tanggol avers that petitioner manipulated 116 votes. The disparity between the October 6, 2010 canvassing and the October 13, 2010 recount stretched to 116 votes. This will prove that in the October 6, 2010 canvassing, the votes for Dr. Alagao and Dr. Englis were shaved off by 66 and 50 votes, respectively, which were credited by petitioner to the votes of Dr. Orejudos. The disparity of 116 votes could not be dismissed simply as the product of honest mistake. Chancellor Tanggol also claims that it is an established fact that when the faculty votes were about to be canvassed, petitioner instructed Ampa and Sultan to staple the counted ballots in groups of 10. Preoccupied with a different assignment, Ampa and Sultan failed to counter-check petitioner's fast-pace reading of the faculty ballots. If petitioner were true to her task in honestly counting the votes, she should have insisted the presence of watchers since they play an important role in upholding the integrity of the canvassing process. As to petitioner's assertion that the sanctity of the ballots was not preserved, Chancellor Tanggol declares that the ballots canvassed on October 6, 2010 were the same ballots counted on October 13, 2010; there were no signs of tampering; and the ballots were still stapled and bundled in groups of 10. Moreover, petitioner was not denied due process. She was represented by a competent lawyer; had the opportunity to present her evidence; submitted her motions, memoranda and other papers; and actively participated in the cross examination of witnesses. Thus, it was not an error to impose upon her the penalty of dismissal from service.

Issue

Stripped of non-essentials, the pivotal issue to be resolved herein is whether there is substantial evidence to sustain the guilt of petitioner for serious dishonesty warranting her dismissal from the service.

The Court's Ruling.

The petition is partially granted.

A petition for review under Rule 45 is limited only to questions of law. Factual questions are not the proper subject of an appeal by certiorari. Nonetheless, the Court has recognized several exceptions to the rule, including: (a) when the findings are grounded entirely on speculation, surmises or conjectures; (b) when the inference made is manifestly mistaken, absurd or impossible; (c) when there is grave abuse of discretion; (d) when the judgment is based on a misapprehension of facts; (e) when the findings of facts are conflicting; (f) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (g) when the findings are contrary to those of the trial court; (h) when the findings are conclusions without citation of specific evidence on which they are based; (i) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (j) when the

findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (k) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[47]

Petitioner asserts that her petition falls under the established exceptions because the judgment of the Court of Appeals is based on a misappreciation of facts; the findings are grounded entirely on speculation, surmises, or conjectures; and the inference is manifestly mistaken, absurd, or impossible.

Aside from this general statement, however, petitioner did not fully explain how the CA's findings are grounded entirely on speculations, surmises, or conjectures; or how its inference is manifestly mistaken, absurd, or impossible; or how its judgment is based on misappreciation of facts. Not only must the parties allege that their case falls under the exception, but also parties praying for a review of the factual findings of the CA should prove and substantiate that their case clearly falls under the exception to the rule.[48]

Without substantiating her allegation that her petition falls within the exceptions, the present petition does not merit a review of the factual findings of the CSC, as affirmed by the CA.

Factual Findings of the CSC and the CA are Binding Upon this Court

Petitioner argues in this petition that the CA committed grave reversible error in ruling that: (1) she deliberately manipulated the results of the October 6, 2010 canvassing to favor one candidate over the others; (2) the sanctity of the ballots was preserved; (3) she was afforded due process of law; and (4) the penalty of dismissal should be imposed on her. The first two (2) issues raised by petitioner involve questions of fact as it necessitates a review of the appreciation of evidence by the CSC and the CA.

Settled is the rule that factual findings by quasi-judicial bodies and administrative agencies, when supported by substantial evidence and sustained by the Court of Appeals, are accorded great respect and binding upon this Court.[49] We recognize that administrative agencies possess specialized knowledge and expertise in their respective fields,[50] so long as the quantum of evidence required in administrative proceedings which is substantial evidence has been met.

In this case, both the CSC and the CA were one in saying that there is substantial evidence to hold petitioner guilty of the administrative offense of serious dishonesty by misreading 116 ballots to favor one candidate.[51]

The CSC gave greater evidentiary weight to the positive and corroborative declarations executed by Ampa, Almazan, Castellano, Ariong and Sultan, rather than the bare denials of petitioner. It ruled that the scheme perpetuated by petitioner in assigning the watchers, Ampa and Sultan, to do another task, and directing Estrada to check the food for dinner, primarily facilitated the discrepancy in the results of the canvassing. As attested to by Almazan, Castellano, Ariong and Sultan, petitioner's reading of the ballots became remarkably fast after she sent the two watchers to do another task and they heard the name of Orejudos continuously announced by petitioner. Also, petitioner admitted that she sealed and signed all the ballot boxes after the canvassing and securely kept by Estrada and was publicly shown only during the recount on October 13, 2010. The CSC further declared that petitioner failed to live up to the high degree of professionalism required of public officers. She intentionally strayed from performing her duties truthfully and honestly caused serious damages and prejudice to the government.

The CA found the following circumstantial evidence pointing to petitioner as the one responsible for misreading the results of the October 6, 2010 canvassing:

- a) the witnesses were one in saying that petitioner ordered Ampa and Sultan to group together and staple the

- ballots even while petitioner was still reading the votes;
- b) the witnesses were also unanimous in identifying petitioner as the only person reading all the ballots;
 - c) it was petitioner alone who had full control of the reading of the ballots;
 - d) it was petitioner who announced the name of Dr. Oejudos 242 times, albeit the votes for him only numbered 127;
 - e) she announced the name of Dr. Alagao 111 times and Dr. Englis, 64 times only, when in fact each one got 175 and 115 respectively;
 - f) she read the ballots quickly while the designated watchers were preoccupied;
 - g) she misread the names indicated in the ballots 100 times, strongly indicating that the erroneous results of the October 6 canvassing was not accidental, but intentional; and
 - h) the October 6 canvassing results which she participated in were substantially different from the 2 separate canvassing results on October 13 wherein she was not a participant.[52]

That it was impossible for petitioner to cheat because there were many watchers during the canvassing and that she was included as member of the Board of Canvassers at the last minute are speculative and untenable contentions. The incontrovertible fact is she gave instructions to the watchers, which divided their attention from watching her read the ballots. If she had no intention to commit a dishonest act, they why would she instruct them to do other things in the first place? That there was a short period of time from her inclusion in the BOC to the canvassing itself is not determinative of her lack of intention to commit a dishonest act. While intention involves a state of mind, subsequent and contemporaneous acts, and evidentiary facts as proved and admitted, can be reflective of one's intention.[53]

As discussed by the CA, petitioner's attempt to cast suspicion or possibly pass the blame to others, to destroy the credibility of the witnesses as to their inconsistent testimonies, and to claim that the sanctity of the ballot was not preserved are conjectures which does not bear any probative value. Petitioner's bare assertions are purely speculative and without any evidence to support it. Furthermore, considering that no improper motive has been proved against the witnesses that might prompt them to testify falsely against petitioner, there was no reason to doubt their credibility. [54]

Indeed, the factual findings of the CSC, as given credence by the CA, substantially proved that petitioner committed the act of dishonesty in misreading 116 ballots during the canvassing for the Vice Chancellor for Academic Affairs Straw Poll.

Petitioner was Afforded Due Process of Law

Petitioner claims that she was not afforded due process because: (1) she was not notified that a recanvassing was to be conducted; (2) she was not furnished a copy of the IFIC Resolution which was submitted to the MSU-President; (3) she did not receive any paper, document, or any communication from the CSC when respondent appealed this case; and (4) the CSC Decision was intentionally kept secret and was never released to petitioner by the Office of the Chancellor of MSU-IIT, until June 3, 2014.

In administrative proceedings, due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend oneself. In such proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process.[55]

Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former a formal or trial-type hearing is not always necessary, and technical rules of procedure are not strictly applied.[56] The essence of due process, therefore, as applied to administrative proceedings, is an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. Thus, a violation of that

right occurs when a court or tribunal rules against a party without giving the person the opportunity to be heard.[57]

We agree that petitioner was given the opportunity to present her own evidence, submit her motions, memoranda, and other papers, and actively participate in the cross-examination of the witnesses before the IFIC. While she was not directed to file a comment by the CSC of Chancellor Tanggol's appeal, she was able to file a motion for reconsideration of the CSC Decision dated February 13, 2014. Petitioner further elevated the case to the CA and moved for reconsideration after the CA dismissed her petition in the Decision dated October 2, 2015.

Petitioner need not be notified of the recanvassing because she was only one of the BOC during the initial canvassing, and there were no charges against her yet to merit her presence or representation. The recanvassing was done to clear the doubt of one candidate and was not done to cast suspicion or accuse anyone at that time. After the recanvassing, petitioner was notified that she was one of those administratively charged. Petitioner was represented by a lawyer, and she was given every opportunity to answer the charge from the investigation of the Institute Formal Investigation Committee until her appeal to Us.

That petitioner actively participated in every stage of the proceedings removes any badge of deficiency and satisfied the due process requirement in administrative proceedings.

Petitioner Should Only Be Held Liable For Simple Dishonesty

The above discussions notwithstanding, We find the petition partially meritorious because the penalty of dismissal from service is not proportionate to the dishonesty committed by petitioner. We find the penalty of dismissal from government service with forfeiture of benefits too severe under the circumstances of petitioner's case.

Petitioner posits that the penalty of dismissal is too harsh for her who is a widow, sickly, has served the MSU-IIT for more than 40 years and has followed the order of the Chair of BOC to canvass the ballots.

As an administrative offense, dishonesty 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 duties. It is 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.[58]

Although dishonesty covers a broad spectrum of conduct, CSC Resolution No. 06-0538[59] set the criteria for determining the severity of dishonest acts. CSC Resolution No. 06-0538 recognizes that dishonesty is a grave offense generally punishable by dismissal from service. Nonetheless, some acts of dishonesty are not constitutive of offenses so grave that they warrant the ultimate penalty of dismissal. Thus, the CSC issued parameters "in order to guide the disciplining authority in charging the proper offense" and in imposing the correct penalty.[60]

Under Sections 3, 4, and 5 of Resolution No. 06-0538, serious, less serious and simple dishonesty comprise the following acts:

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

- a. The dishonest act causes serious damage and grave prejudice to the government.
- b. The respondent gravely abused his authority in order to commit the dishonest act.
- c. Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption.
- 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.
- f. The dishonest act was committed several times or in various occasions.
- g. The dishonest act involves a Civil Service examination, irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets.
- h. Other analogous circumstances.

Sec. 4. The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Less Serious Dishonesty:

- a. The dishonest act caused damage and prejudice to the government which is not so serious as to qualify under the immediately preceding classification.
- b. The respondent did not take advantage of his/her position in committing the dishonest act.
- c. Other analogous circumstances.

Sec. 5. The presence of any of the following attendant circumstances in the commission of the dishonest act constitutes the offense of Simple Dishonesty:

- a. The dishonest act did not cause damage or prejudice to the government.
- b. The dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent.
- c. In falsification of any official document, where the information falsified is not related to his/her employment.
- d. That the dishonest act did not result in any gain or benefit to the offender.
- e. Other analogous circumstances.

On February 13, 2014, the CSC found petitioner guilty of Serious Dishonesty but it did not specify her act which classifies it to serious dishonesty under CSC Resolution No. 06-0538. The 2017 Rules on Administrative Cases in the Civil Service, Rule 10, Section 53 provides for mitigating or aggravating circumstances which may be appreciated in the determination of penalties to be imposed, such as length of service in the government, first offense and other analogous circumstances.

Considering that petitioner's dishonest act was not shown to fall under serious or less serious dishonesty, it did not cause damage or prejudice to the government or result in any gain or benefit to her, and petitioner has been in the service for more than 40 years, petitioner should only be liable of simple dishonesty, which may be punished by suspension of six months.

WHEREFORE, premises considered, the instant petition is PARTIALLY GRANTED. Petitioner Delilah L. Soliva is hereby found administratively GUILTY of Simple Dishonesty and is meted the penalty of SUSPENSION for SIX (6) MONTHS.

SO ORDERED.

Leonen (Chairperson), Gesmundo, Zalameda, and Gaerlan, JJ., concur.

[1] Rollo, pp. 3-50.

[2] Penned by Associate Justice Amy C. Lazaro-Javier (Now a Member of this Court), with Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang, concurring; id. at 52-80.

[3] Id. at 82.

- [4] Id. at 160-167.
- [5] Id. at 83.
- [6] Id. at 54-57.
- [7] Id. at 56.
- [8] Id. at 58.
- [9] Id. at 144.
- [10] Id. at 254.
- [11] See Comment (Answer) of the BOR; id. at 446.
- [12] Id. at 88-90.
- [13] Id. at 87.
- [14] Id. at 86.
- [15] Id. at 103.
- [16] Id. at 107-122.
- [17] Id. at 122. Zaman was not included in the charge.
- [18] Id. at 57-58.
- [19] Id. at 60-61.
- [20] Id. at 123.
- [21] Id. at 124-125.
- [22] Id. at 126-127.
- [23] Id. at 137-138.
- [24] Id. at 139-159.
- [25] Id. at 154-155.
- [26] Id. at 155.
- [27] Id. at 156.
- [28] Id. at 160-167.
- [29] Id. at 167.
- [30] Id. at 168-187.
- [31] Id. at 258-266.
- [32] Supra note 4.
- [33] Rollo, p. 74.
- [34] Id. at 73-74.

- [35] Id. at 77-78.
- [36] Id. at 82.
- [37] Id. at 16.
- [38] Id. at 17-18.
- [39] Id. at 19-22.
- [40] Id. at 25-34.
- [41] Id. at 35-36.
- [42] Id. at 36.
- [43] Id. at 41.
- [44] Id. at 42.
- [45] Id. at 43.
- [46] Id. at 455-477.
- [47] Angeles v. Pascual, 673 Phil. 499, 506 (2011).
- [48] Quirino v. National Police Commission, G.R. No. 215545, January 7, 2019.
- [49] Japson v. Court of Appeals, 663 Phil. 665, 675 (2011).
- [50] Id.
- [51] Rollo, pp. 78-79.
- [52] Id. at 73-74.
- [53] Sarming v. Dy, 432 Phil. 685, 699 (2002).
- [54] People v. Fuertes, 299 Phil. 285, 297 (1994).
- [55] Office of the Ombudsman v. Conti, G.R. No. 221296, February 2, 2017, 818 SCRA 528, 539.
- [56] Nestle Philippines, Inc. v. Puedan, 804 Phil. 583, 594 (2017).
- [57] Supra note 54.
- [58] Field Investigation Office v. Piano, G.R. No. 215042, November 20, 2017, 845 SCRA 167, 180.
- [59] Rules on Administrative Offense on Dishonesty, April 4, 2006.
- [60] Committee on Security and Safety, Court of Appeals v. Dianco, 760 Phil. 169, 188 (2015).

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