

LUNINGNING LANDRITO, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

G.R. Nos. 104304-05. June 22, 1993

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court and Section 7, Art. IX (A) of the 1987 Constitution, to review, reverse and set aside Resolutions Nos. 91-1091 and 92-202 of the Civil Service Commission dated September 24, 1991 and January 30, 1992, respectively.

Resolution No. 91-1091 found petitioner guilty of Grave Misconduct and meted the penalty of dismissal, (Rollo, pp. 27-30) while Resolution No. 92-202 denied petitioner's motion for reconsideration of the first resolution (Rollo, pp. 31-34).

The administrative case against petitioner was the off-shoot of a letter of Antonia N. Mirabona, an employee of the Department of Labor and Employment, which was published in the August 13, 1990 issue of the Philippine Daily Inquirer. The letter, which complained of cheating in the August 5, 1990 Career Service Examination held at the J. Rizal Elementary School in Manila, reads in part:

"The Civil Service Examination was held last Aug. 5, and I was one of those who took the examination.

"The exam was going on smoothly until I witnessed an irregularity. In the middle of the exam, a woman came to the room (Room 17, Josephine Bldg. of J. Rizal Elementary School, Tayuman and Pingkian Sts., Tondo, Manila). She was in a black-striped dress. Maybe she is a member of the faculty since the proctors who are teachers of the school, know her. She then got hold of a questionnaire and started dictating the answers. Our proctor told us to keep it a secret 'since we want you to pass.'"

As a consequence of the publication of the letter, the Civil Service Commission - National Capital Region (CSC-NCR) conducted a fact-finding investigation of the reported anomaly. In the investigation, petitioner was identified as the woman referred to in the letter. The CSC-NCR formally charged petitioner with Grave Misconduct for having dictated the answers to two or three questions to an examinee on August 5, 1990.

After a hearing, the CSC-NCR submitted a Report of Investigation to the Civil Service Commission finding petitioner guilty of a less grave offense of Simple Misconduct and recommending the imposition of the penalty of suspension for one month and one day to six months.

Acting on the report of the CSC-NCR, the Civil Service Commission held in its Resolution No. 91-1091 that the acts of petitioner constituted the offense of Grave Misconduct and imposed the penalty of dismissal (Rollo, pp. 27-30).

The report of the CSC-NCR, which was adopted by the Civil Service Commission, showed that petitioner was a public school teacher at the J. Rizal Elementary School in Tayuman, Tondo, Manila. On August 5, 1990, she was a proctor assigned to Room 20 of said school in the Career Service Examination. While the examination was in

progress, petitioner entered Room 17 and asked for a glass of softdrink from Digna Ventura, one of the proctors assigned to said room. When Ventura went to get a drinking glass, petitioner got hold of a questionnaire and dictated the answers to two or three items therein.

After the letter of Mirabona was published in the Philippine Daily Inquirer, Dr. Ester O. Sto. Niño, Principal of the J. Rizal Elementary School, called petitioner to her office. Petitioner admitted to Dr. Sto. Niño that she was the person referred to in the letter.

Petitioner denied having dictated any of the answers to the questions. According to her, she noticed that an examinee, with a perplexed look on her face, kept turning her head from left to right as if she was trying to get the proctors' attention. Inasmuch as the two proctors assigned to Room 17 were busy, she approached the examinee and inquired what was wrong. The examinee asked how an answer could be corrected or changed. Petitioner then borrowed the examinee's questionnaire and calling the examinees' attention, explained the procedure in changing their answers. She testified:

"I explained the directions dahil may nagtanong - 'What am I supposed to do kung halimbawa nagkamali ako and I want to change my answer.' I did not discuss any (sic), sabi ko halimbawa 22 at sinasabi mong ang sagot mo 'b', di i-blacken mo ang 'b' at burahin mo yong 'a'. Kasi sabi ko, kung computerized ito, iyon ang magreflect. Iyon lang ho ang sinabi ko' I cited an example (TSN; January 28, 1991, p. 3; Rollo, p. 71).

We are inclined to believe petitioner's version rather than the finding of the Civil Service Commission that petitioner dictated the answers to two or three questions.

Lourdes Gonzales, a proctor assigned to Room 17, could not say whether what petitioner dictated were answers to questions in the examination.

On cross-examination, she was asked: "You said you heard her dictating, what was she dictating?" Her answer: "I did not exactly hear (sic) what she said but she's dictating something, may be answers, I don't know" (TSN, p. 6, January 28, 1991).

Antonia N. Mirabona, the complainant and Digna Ventura, the other proctor in Room 17, both testified that petitioner dictated the answers to two or three questions. After petitioner explained that what she dictated were not answers to specific questions but hypothetical illustrations on how an examinee could correct a previous answer, these two witnesses for the Civil Service Commission were not recalled to rebut the claim of petitioner.

Petitioner claimed that she could not have given the answers to the questions because she did not even know the correct answers. Credence can be given to such a claim. As a mere grade school teacher, she is not accustomed to supply the answers to the questions in a Career Service Examination. The first level of this examination requires that the examinee has taken some collegiate courses while the second level thereof requires the examinee to have at least four years of collegiate studies. (Sec. 8, Title I, Subtitle A, Book V, the Administrative Code of 1987). The CSC-NCR investigator reported that he could not confirm whether the answers dictated by petitioner were correct (p. 3, CSC Res. No. 91-1091; Rollo, p. 29).

We should also consider that there were two sets of questions (Form A and Form B) used in the examination. In such a case, for an answer to be of any use, it was necessary that the specific question which it referred to must first be read by petitioner. There was nothing on record to show that petitioner first read the questions before giving the answers.

In his comment on the petition, the Solicitor General stated that "[u]nder the circumstances [he] believes that petitioner is only guilty of simple misconduct and should be meted the minimum penalty under the law of one month and one day suspension" (Rollo, pp. 123-124).

The CSC-NCR is of the belief "that what she has done could not be so serious an act that would warrant grave misconduct and result in her dismissal after long dedicated years of service in the government" (CSC-Resolution No. 91-1091, p. 3; Rollo, p. 29).

We agree with the Solicitor General and the CSC-NCR that petitioner is guilty only of Simple Misconduct.

From the evidence on record, we gather that petitioner did not coach any particular examinee; rather, she addressed all the examinees in Room 17 when she explained the procedure for changing an answer. If she intended to help a favored examinee, she should have just whispered the answers to the questions.

There is no evidence that petitioner profited pecuniarily from the act imputed upon her.

Except for the disturbance created by petitioner's officiousness, the integrity of the examination cannot be said to have been compromised.

In Grave Misconduct, 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 Re: Impeachment of Horrilleno, 43 Phil. 212 [1922]). None of these elements exists in petitioner's case.

Finally, we take note of petitioner's 24 years of unblemished service as a public school teacher.

WHEREFORE, Resolutions Nos. 91-1091 and 92-202 of the respondent Civil Service Commission are hereby MODIFIED. Petitioner is found guilty only of SIMPLE MISCONDUCT and accordingly, the Court imposes upon her the penalty of suspension of one month and one day.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, and Melo, JJ., concur.

Padilla, J., on leave.

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