

THIRD DIVISION

[G.R. No. 200577, August 17, 2016]

CIVIL SERVICE COMMISSION, PETITIONER, VS. CAROLINA P. JUEN, RESPONDENT.

DECISION

REYES, J.:

Before the Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assailing the Decision^[2] dated July 8, 2011 and Resolution^[3] dated February 10, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 100240, setting aside the Resolution No. 061183^[4] dated July 12, 2006 and Resolution No. 071209^[5] dated June 22, 2007 of the Civil Service Commission (CSC). The Resolutions of the CSC affirmed the CSC Regional Office V's (CSCRO V) Order dated January 16, 2004, finding Carolina P. Juen (respondent), Budget Officer I, Municipality of Placer, Masbate, guilty of dishonesty, grave misconduct and conduct prejudicial to the best interest of the service.

Antecedent Facts

Based on a letter-complaint,^[6] the respondent was investigated by the GSCRO V for allegedly having paid another person take the Civil Service Professional Examination (CSPE) given on December 20, 1996 on her behalf. The respondent denied the allegation.^[7]

However, after preliminary investigation, the CSCRO V found that there existed a *prima facie* case for dishonesty, grave misconduct and conduct prejudicial to the best interest of the service against the respondent.^[8] It found that, after a comparison of the respondent's picture submitted in the Personal Data Sheet^[9] and with the picture of the person who took the exam as found in the Picture Seat Plan,^[10] the respondent was not the one who actually took the examination but caused somebody to take the exam on her behalf. The respondent was, thus, formally charged with dishonesty, grave misconduct and conduct prejudicial to the best interest of the service and directed to submit an answer within 72 hours from receipt of the formal charge.^[11]

In her Answer,^[12] the respondent reiterated that she personally took the CSPE on December 20, 1996 and denied that she paid someone else to take the examination for her. She stated that she was never given the chance to examine the documents which constituted the charge against her.

Initial hearing for the case was set on September 4, 2003 at the CSCRO V, Rawis, Legaspi City.^[13]

When the case was called on September 5, 2003, only the prosecution appeared. It was allowed to present its evidence *ex-parte* and, thereafter, rested its case. At the same hearing, the respondent was directed to present their evidence on November 15, 2003 and was warned that failure to do so at the appointed day and time shall constitute as a waiver.^[14] The respondent failed to present her evidence on November 15, 2003.^[15]

Ruling of the CSCRO V

In its Order^[16] dated January 16, 2004, the CSCRO V found the respondent guilty of dishonesty, grave misconduct and conduct prejudicial to the service. It stated:

A careful examination of the records clearly shows that the person whose picture was pasted on the [respondent's PDS and the person whose picture was pasted on the Picture Seat Plan for the [CSPE] given on February 13, 1997, using the name of [the respondent] are two different persons.

On the other hand, [Respondent failed to explain her marked difference in physical appearance from the one who actually applied and took the December 20, 1996 [CSPE] under the name of [the respondent]. She even failed to appear before this Office when required to do so. Logically[, the r]espondent was not the person who actually applied and took the December 20, 1996 [CSPE] but caused someone to take it for and in her behalf.^[17]

The CSCRO V, thus, imposed the penalty of dismissal with all the accessory penalties attached thereto.^[18]

The respondent moved for reconsideration on the grounds that: 1) her constitutional right to due process and right to be informed of the causes against her had been denied; and 2) the CSCRO V had no jurisdiction over the case. She said she was not given sufficient notice to attend the scheduled hearings.

In its Order^[19] dated October 12, 2004, the CSCRO V denied the motion. It stated that it had the jurisdiction to hear the complaint against the respondent by virtue of Section 6 of the Uniform Rules on Administrative Cases in the Civil Service (URACCS). It found that the respondent had been given an opportunity to present her case. It stated that while it was true that the notice for the September 4, 2003 hearing was received on the same day by the respondent, her counsel received the notice of hearing. for November 13, 2003 two days prior to the scheduled hearing or on November 11, 2003. It reasoned that under Section 84 of the URACCS, receipt by counsel is valid service. Despite due notice of CSCRO V, the respondent still failed to appear.

Ruling of the CSC

On appeal,^[20] the CSC, in its Resolution No. 061183^[21] dated July 12, 2006, affirmed the CSCRO V orders. *First*, it stated that the CSCRO V has jurisdiction over disciplinary cases as the CSC validly delegated to it such power pursuant to Section

12(16), Book V of Executive Order No. 292. It was under this delegation that the CSC implemented the URACCS, particularly Section 6.^[22] *Second*, it found that the respondent's claim of denial of due process is without merit. Notices were sent to and received by the respondent who failed to appear on both scheduled hearings.^[23] *Lastly*, it also found no merit in the respondent's claim that the complaint initiated against her was not under oath. The CSC cited Section 8, Rule II of the URACCS, which stated that in cases initiated by the proper disciplining authority a complaint need not be under oath.^[24]

The CSC stated:

The Commission carefully evaluated the evidence on record and is fully convinced that the person appearing in the pictures attached to the PSP during the [CSPE] held on December 20, 1996, and the PDS on one hand, are not one and the same. This is so, despite the fact that the two are different pictures taken at different times, with the person wearing different hairstyles and in the photo pasted on the PDS was groomed with cosmetics. Moreover, the loops and strokes of the handwriting and signatures on the two documents are starkly different. It is, thus, unmistakable that said signatures belong to different persons. These discrepancies are conclusive that impersonation was committed, an act which is inimical to the integrity and credibility of Civil Service Examinations.^[25]

The CSC, thus, affirmed the ruling of the CSCRO V finding substantial evidence to hold the respondent guilty of dishonesty, grave misconduct and conduct prejudicial to the best interest of the service.^[26]

The respondent moved for reconsideration^[27] on August 16, 2006, but the same was denied in CSC Resolution No. 071209^[28] dated June 22, 2007. The dispositive portion reads:

WHEREFORE, the motion for reconsideration of [the respondent] is hereby **DENIED**. Accordingly, [CSC] Resolution No. 06-1183 dated July 12, 2006, which affirmed the [CSCRO V] Order dated January 16, 2004 finding her guilty of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service and imposing upon her the penalty of dismissal from the service with the accessory penalties of perpetual disqualification from entering the government service and from taking future Civil Service examinations, forfeiture of retirement benefits and cancellation of Civil Service eligibility, **STANDS**.^[29]

The respondent, thus, filed an appeal^[30] before the CA.

However, on April 1, 2009, the respondent's counsel informed the CA that the respondent died from ovarian cancer on December 23, 2008.^[31] The respondent's counsel, however, manifested that the respondent's heirs are very much interested in the outcome of the petition because they will be benefited by whatever claims and benefits the respondent may be entitled to should a favorable judgment be rendered.^[32] The Office of the Solicitor General, on behalf of the CSC, agreed that the case should continue on the ground that the "death of respondent in an

administrative case does not preclude a finding of administrative liability."^[33]

Ruling of the CA

In its Decision^[34] dated July 8, 2011, the CA found that the CSC did not afford the respondent a hearing where she could present her case and submit evidence to support it. The CA stated:

The [respondent] cannot be faulted for her being absence [sic] during the hearings set by the [CSCRO V]. It is of record that notice for the first hearing set on September 4, 2003 was received on the same day, while the notice for the second hearing was received by [the respondent] on November 11, 2003, or only two days before the hearing. [The respondent's] counsel was in Cebu City and the hearing was to be conducted in Legaspi City, it would be extremely unreasonable to expect [the respondent's] attendance. Evidently, [the respondent] was not given enough time to be present and her counsel before the [CSCRO V]. She was unlawfully deprived of her right to adduce evidence for her defense.

^[35] (Citations omitted)

The CA stated that, pursuant to the Court's ruling in *Ang Tibay and National Worker's Brotherhood v. The Court of Industrial Relations and National Labor Union, Inc.*^[36] and *Abella, Jr. v. CSC*,^[37] the CSCRO V should have given the respondent another opportunity to present her evidence. Since the CSCRO V hastily admitted the evidence against the respondent, the documentary evidence which it based its findings on cannot be relied upon.^[38] It, thus, set aside Resolutions No. 061183 and 071209 of the CSC.

The CSC moved for reconsideration,^[39] but the same was denied in Resolution^[40] dated February 10, 2012 of the CA.

Hence, this petition by the CSC arguing that the CSCRO V complied with all the requirements of due process and praying that the resolutions of the CSC be reinstated. It stated that the respondent may be served summons through her counsel.^[41]

The questions for the Court's consideration therefore are: 1) whether the death of the respondent rendered the appeal moot and academic; and 2) whether the CA erred in finding that the respondent was not afforded due process.

Ruling of the Court

While, as a general rule, the Court has held that the death of the respondent does not preclude a finding of administrative liability, it is not without exception. The Court stated in *Office of the Ombudsman v. Dechavez*^[42] that from a strictly legal point of view and as held in a long line of cases, jurisdiction, once it attaches, cannot be defeated by the acts of the respondent, save only where death intervenes and the action does not survive.^[43] In *Mercado, et al. v. Judge Salcedo (Ret.)*,^[44] the Court reiterated its rule with respect to the death of the respondent in an administrative case: