

THIRD DIVISION

[G.R. No. 198755, June 05, 2013]

**ALBERTO PAT-OG, SR., PETITIONER, VS. CIVIL SERVICE
COMMISSION RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, which seeks to set aside the April 6, 2011 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 101700, affirming the April 11, 2007 Decision^[2] of the Civil Service Commission (CSC), which ordered the dismissal of petitioner Alberto Pat-og, Sr. (*Pat-og*) from the service for grave misconduct.

The Facts

On September 13, 2003, Robert Bang-on (*Bang-on*), then a 14-year old second year high school student of the Antadao National High School in Sagada, Mountain Province, tiled an affidavit-complaint against Pat-og, a third year high school teacher of the same school, before the Civil Service Commission-Cordillera Administrative Region (CSC-CAR).

Bang-on alleged that on the morning of August 26, 2003, he attended his class at the basketball court of the school, where Pat-og and his third year students were also holding a separate class; that he and some of his classmates joined Pat-og's third year students who were practicing basketball shots; that Pat-og later instructed them to form two lines; that thinking that three lines were to be formed, he stayed in between the two lines; that Pat-og then held his right arm and punched his stomach without warning for failing to follow instructions; and that as a result, he suffered stomach pain for several days and was confined in a hospital from September 10-12, 2003, as evidenced by a medico-legal certificate, which stated that he sustained a contusion hematoma in the hypogastric area.

Regarding the same incident, Bang-on filed a criminal case against Pat-og for the crime of Less Serious Physical Injury with the Regional Trial Court (RTC) of Bontoc, Mountain Province.

Taking cognizance of the administrative case, the CSC-CAR directed Pat-og to file his counter-affidavit. He denied the charges hurled against him and claimed that when he was conducting his Music, Arts, Physical Education and Health (*MAPEH*) class, composed of third year students, he instructed the girls to play volleyball and the boys to play basketball; that he later directed the boys to form two lines; that after the boys failed to follow his repeated instructions, he scolded them in a loud voice and wrested the ball from them; that while approaching them, he noticed that there were male students who were not members of his class who had joined the shooting

practice; that one of those male students was Bang-on, who was supposed to be having his own MAPEH class under another teacher; that he then glared at them, continued scolding them and dismissed the class for their failure to follow instructions; and that he offered the sworn statement of other students to prove that he did not box Bang-on.

On June 1, 2004, the CSC-CAR found the existence of a *prima facie* case for misconduct and formally charged Pat-og.

While the proceedings of the administrative case were ongoing, the RTC rendered its judgment in the criminal case and found Pat-og guilty of the offense of slight physical injury. He was meted the penalty of imprisonment from eleven (11) to twenty (20) days. Following his application for probation, the decision became final and executory and judgment was entered.

Meanwhile, in the administrative case, a pre-hearing conference was conducted after repeated postponement by Pat-og. With the approval of the CSC-CAR, the prosecution submitted its position paper in lieu of a formal presentation of evidence and formally offered its evidence, which included the decision in the criminal case. It offered the affidavits of Raymund Atuban, a classmate of Bang-on; and James Domanog, a third year high school student, who both witnessed Pat-og hit Bang-on in the stomach.

For his defense, Pat-og offered the testimonies of his witnesses - Emiliano Dontongan (*Dontongan*), a teacher in another school, who alleged that he was a member of the Municipal Council for the Protection of Children, and that, in such capacity, he investigated the incident and came to the conclusion that it did not happen at all; and Ernest Kimmot, who testified that he was in the basketball court at the time but did not see such incident. Pat-og also presented the affidavits of thirteen other witnesses to prove that he did not punch Bang-on.

Ruling of the CSC-CAR

In its Decision,^[3] dated September 19, 2006, the CSC-CAR found Pat-og guilty and disposed as follows:

WHEREFORE, all premises told, respondent Alberto Pat-og, Sr., Teacher Antadao National High School, is hereby found guilty of Simple Misconduct.

Under the Uniform Rules on Administrative Cases in the Civil Service, the imposable penalty on the first offense of Simple Misconduct is suspension of one (1) month and one (1) day to six (6) months.

Due to seriousness of the resulting injury to the fragile body of the minor victim, the CSC-CAR hereby imposed upon respondent the maximum penalty attached to the offense which is six months suspension without pay.

The CSC-CAR gave greater weight to the version posited by the prosecution, finding

that a blow was indeed inflicted by Pat-og on Bang-on. It found that Pat-og had a motive for doing so - his students' failure to follow his repeated instructions which angered him. Nevertheless, the CSC- CAR ruled that a motive was not necessary to establish guilt if the perpetrator of the offense was positively identified. The positive identification of Pat-og was duly proven by the corroborative testimonies of the prosecution witnesses, who were found to be credible and disinterested. The testimony of defense witness, Dontongan, was not given credence considering that the students he interviewed for his investigation claimed that Pat-og was not even angry at the time of the incident, contrary to the latter's own admission.

The CSC-CAR held that the actions of Pat-og clearly transgressed the proper norms of conduct required of a public official, and the gravity of the offense was further magnified by the seriousness of the injury of Bang-on which required a healing period of more than ten (10) days. It pointed out that, being his teacher, Pat-og's substitute parental authority did not give him license to physically chastise a misbehaving student. The CSC-CAR added that the fact that Pat-og applied for probation in the criminal case, instead of filing an appeal, further convinced it of his guilt.

The CSC-CAR believed that the act committed by Pat-og was sufficient to find him guilty of Grave Misconduct. It, however, found the corresponding penalty of dismissal from the service too harsh under the circumstances. Thus, it adjudged petitioner guilty of Simple Misconduct and imposed the maximum penalty of suspension for six (6) months.

On December 11, 2006, the motion for reconsideration filed by Pat-og was denied for lack of merit.^[4]

The Ruling of the CSC

In its Resolution,^[5] dated April 11, 2007, the CSC dismissed Pat-og's appeal and affirmed with modification the decision of the CSC-CAR as follows:

WHEREFORE, foregoing premises considered, the instant appeal is hereby DISMISSED. The decision of the CSC-CAR is affirmed with the modification that Alberto Pat-og, Sr., is adjudged guilty of grave misconduct, for which he is meted out the penalty of dismissal from the service with all its accessory penalties of cancellation of eligibilities, perpetual disqualification from re- employment in the government service, and forfeiture of retirement benefits.^[6]

After evaluating the records, the CSC sustained the CSC-CAR's conclusion that there existed substantial evidence to sustain the finding that Pat-og did punch Bang-on in the stomach. It gave greater weight to the positive statements of Bang-on and his witnesses over the bare denial of Pat- og. It also highlighted the fact that Pat-og failed to adduce evidence of any ill motive on the part of Bang-on in filing the administrative case against him. It likewise gave credence to the medico-legal certificate showing that Bang-on suffered a hematoma contusion in his hypogastric area.

The CSC ruled that the affidavits of Bang-on's witnesses were not bereft of evidentiary value even if Pat-og was not afforded a chance to cross-examine the witnesses of Bang-on. It is of no moment because the cross-examination of witnesses is not an indispensable requirement of administrative due process.

The CSC noted that Pat-og did not question but, instead, fully acquiesced in his conviction in the criminal case for slight physical injury, which was based on the same set of facts and circumstances, and involved the same parties and issues. It, thus, considered his prior criminal conviction as evidence against him in the administrative case.

Finding that his act of punching his student displayed a flagrant and wanton disregard of the dignity of a person, reminiscent of corporal punishment that had since been outlawed for being harsh, unjust, and cruel, the CSC upgraded Pat-og's offense from Simple Misconduct to Grave Misconduct and ordered his dismissal from the service.

Pat-og filed a motion for reconsideration, questioning for the first time the jurisdiction of CSC over the case. He contended that administrative charges against a public school teacher should have been initially heard by a committee to be constituted pursuant to the Magna Carta for Public School Teachers.

On November 5, 2007, the CSC denied his motion for reconsideration.^[7] It ruled that Pat-og was estopped from challenging its jurisdiction considering that he actively participated in the administrative proceedings against him, raising the issue of jurisdiction only after his appeal was dismissed by the CSC.

Ruling of the Court of Appeals

In its assailed April 6, 2011 Decision,^[8] the CA affirmed the resolutions of the CSC. It agreed that Pat-og was estopped from questioning the jurisdiction of the CSC as the records clearly showed that he actively participated in the proceedings. It was of the view that Pat-og was not denied due process when he failed to cross-examine Bang-on and his witnesses because he was given the opportunity to be heard and present his evidence before the CSC-CAR and the CSC.

The CA also held that the CSC committed no error in taking into account the conviction of Pat-og in the criminal case. It stated that his conviction was not the sole basis of the CSC for his dismissal from the service because there was substantial evidence proving that Pat-og had indeed hit Bang-on.

In its assailed Resolution,^[9] dated September 13, 2011, the CA denied the motion for reconsideration filed by Pat-og.

Hence, the present petition with the following

Assignment of Errors

WHETHER OR NOT RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT AFFIRMED THE SUPREME PENALTY OF DISMISSAL FROM SERVICE WITH FORFEITURE OF RETIREMENT BENEFITS AGAINST THE PETITIONER WITHOUT CONSIDERING PETITIONER'S LONG YEARS OF GOVERNMENT SERVICE?

WHETHER OR NOT RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT PETITIONER IS ESTOPPED FROM QUESTIONING THE JURISDICTION OF THE CIVIL SERVICE COMMISSION TO HEAR AND DECIDE THE ADMINISTRATIVE CASE AGAINST HIM?

WHETHER OR NOT RESPONDENT COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE APPEAL DESPITE LACK OF SUBSTANTIAL EVIDENCE?

On Jurisdiction

Pat-og contends that Section 9 of Republic Act (R.A.) No. 4670, otherwise known as the Magna Carta for Public School Teachers, provides that administrative charges against a public school teacher shall be heard initially by a committee constituted under said section. As no committee was ever formed, the petitioner posits that he was denied due process and that the CSC did not have the jurisdiction to hear and decide his administrative case. He further argues that notwithstanding the fact that the issue of jurisdiction was raised for the first time on appeal, the rule remains that estoppel does not confer jurisdiction on a tribunal that has no jurisdiction over the cause of action or subject matter of the case.

The Court cannot sustain his position.

The petitioner's argument that the administrative case against him can only proceed under R.A. No. 4670 is misplaced.

In *Puse v. Santos-Puse*,^[10] it was held that the CSC, the Department of Education (*DepEd*) and the Board of Professional Teachers-Professional Regulatory Commission (*PRC*) have concurrent jurisdiction over administrative cases against public school teachers.

Under Article IX-B of the 1987 Constitution, the CSC is the body charged with the establishment and administration of a career civil service which embraces all branches and agencies of the government.^[11] Executive Order (*E.O.*) No. 292 (the Administrative Code of 1987)^[12] and Presidential Decree (P.D.) No. 807 (the Civil Service Decree of the Philippines)^[13] expressly provide that the CSC has the power to hear and decide administrative disciplinary cases instituted with it or brought to it on appeal. Thus, the CSC, as the central personnel agency of the government, has the inherent power to supervise and discipline all members of the civil service, including public school teachers.