

EN BANC

[G.R. No. 180853, January 20, 2009]

MANICAM M. BACSASAR, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

DECISION

NACHURA, J.:

Petitioner Manicam M. Bacsasar (petitioner) filed this Petition for *Certiorari* seeking to nullify the Resolutions dated June 26, 2007^[1] and October 2, 2007^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 01508.

On May 7, 2003, petitioner was charged with dishonesty by the Civil Service Commission-Autonomous Region in Muslim Mindanao (CSC-ARMM), committed as follows:

1. That in your Personal Data Sheet (PDS), dated February 20, 2001, you indicated that you passed the Career Service Professional examination on November 28, 2000 with a rating of 87.54% conducted in Quezon City;
2. That the same eligibility was used to support the issuance of an appointment in your favor by Mayor Hadji Ali MB. Munder of Bubong, Lanao del Sur as Municipal Assessor under Permanent status; and
3. That a verification from Civil Service Regional Office - National Capital Region in Quezon City yielded a response that your name is not included in the Master List of passing and failing list of NCR-CSP dated November 28, 2000.^[3]

In her answer, petitioner denied the charge. She averred that on October 15, 2002, a man with the name Tingcap Pandi, who is now deceased, approached her and convinced her to obtain her Civil Service eligibility from him without need of taking an examination. She admitted that she used the said eligibility to support the issuance of a permanent appointment, but averred that she was not aware that the eligibility issued to her was spurious. It was only after verification with the CSC-NCR that she learned the falsity of her eligibility.^[4]

On October 6, 2003, petitioner informed the CSC-ARMM that she was waiving her right to a formal investigation. On February 9, 2004, CSC-ARMM rendered a decision^[5] finding petitioner guilty of dishonesty and imposing upon her a penalty of dismissal from service with all its accessory penalties.

Petitioner appealed to the CSC. On December 14, 2005, the CSC issued Resolution No. 051885^[6] dismissing the appeal. Sustaining the CSC-ARMM, the CSC held:

[S]ubstantial evidence has been established that Bacsasar is guilty of dishonesty by misrepresenting in her PDS that she passed the Career Service Professional examination given on November 28, 2000 with a rating of 87.54% in Quezon City. Notably, the certification of CSC-NCR that Bacsasar's name is not included in the Master List of passing and failing examinees during the NCR-CSP examination conducted on November 28, 2000 is sufficient to prove the charge of dishonesty against Bacsasar. Hence, it cannot be denied that Bacsasar is guilty of dishonesty.

The CSC disposed, thus:

WHEREFORE, the appeal of Manicam M. Bacsasar is hereby **DISMISSED**. Accordingly, the Decision dated February 9, 2004 of the CSC-ARMM, finding her guilty of Dishonesty for which she was meted out a penalty of dismissal from service including the accessory penalties of forfeiture of retirement benefits, cancellation of eligibility, and perpetual disqualification from reemployment in the government service, is **AFFIRMED**.^[7]

Petitioner filed a motion for reconsideration, but it was denied by the CSC in its Resolution No. 062250^[8] dated December 19, 2006. Petitioner received CSC Resolution 062250 on January 8, 2007. On January 23, 2007, she requested a thirty day-extension of time, or until February 22, 2007, to file a petition for review. Petitioner, however, failed to file the intended petition within the extended period.^[9]

On February 27, 2007, petitioner filed a Motion to Admit (the attached Petition).^[10]

On June 26, 2007, the CA dismissed the petition for having been tardily filed and for lack of merit. It held that the failure of the petitioner to file the intended petition for review within the extended period rendered the CSC decision final and executory. Accordingly, it had been divested of jurisdiction to entertain the petition. The CA also affirmed the CSC finding that there is substantial evidence on record to establish petitioner's culpability. A motion for reconsideration was filed, but the CA denied it on October 2, 2007.

Hence, this recourse by petitioner theorizing that:

1. THE ASSAILED RESOLUTIONS DATED JUNE 26, 2007 AND OCTOBER 2, 2007 WERE ISSUED IN VIOLATION OF LAW OR (sic) DUE PROCESS;
2. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN AFFIRMING THE DECISION DATED FEBRUARY 9, 2004 OF THE CSC-ARMM REGIONAL DIRECTOR FINDING PETITIONER MANICAM M. BACSASAR GUILTY OF DISHONESTY;
3. THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING THE FORMAL CHARGE AGAINST THE PETITIONER.^[11]

We deny the petition.

Admittedly, petitioner received CSC Resolution No. 062250 dated December 19, 2006 on January 8, 2007. However, she filed her appeal with the CA only on February 27, 2007.^[12] Clearly, her petition for review with the CA was tardily filed. The CSC resolutions, therefore, attained finality.

As we explained in *Emerlinda S. Talento v. Hon. Remegio M. Escalada, Jr.*:^[13]

The perfection of an appeal in the manner and within the period prescribed by law is mandatory. Failure to conform to the rules regarding appeal will render the judgment final and executory and beyond the power of the Court's review. Jurisprudence mandates that when a decision becomes final and executory, it becomes valid and binding upon the parties and their successors-in-interest. Such decision or order can no longer be disturbed or reopened no matter how erroneous it may have been.

Accordingly, the CA correctly dismissed the petition as it no longer had any jurisdiction to alter or nullify the CSC resolutions.

But, if only to show that the petition is doomed to fail anyway, we will discuss the issues raised by the petitioner.

Petitioner asserts denial of due process because her case was decided without a formal investigation. She claims that she was denied opportunity to present evidence, to confront the witnesses against her, and to object to the evidence adduced against her.

We are not convinced.

To begin with, petitioner waived her right to a formal investigation on October 6, 2003.^[14] Thus, she cannot decry that she was denied her right to a formal investigation.

Second, records show that petitioner never raised this issue in the proceedings below. In the proceedings before the CSC and the CA, petitioner's defense zeroed in on her alleged lack of knowledge that her eligibility was spurious. It is too late in the day for petitioner to raise it for the first time in this petition.

As a rule, no question will be entertained on appeal unless it has been raised in the court below. Points of law, theories, issues and arguments not brought to the attention of the lower court ordinarily will not be considered by a reviewing court, because they cannot be raised for the first time at that late stage. Basic considerations of due process underlie this rule. ^[15]

Thirdly, petitioner was given ample opportunity to defend her case, contrary to what she wants to portray.

It must be remembered that the essence of due process does not necessarily require a hearing, but simply a reasonable opportunity or right to be heard or, as