

EN BANC

[G.R. No. 182267, August 28, 2009]

PAGAYANAN R. HADJI-SIRAD, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure, petitioner Pagayanan Hadji-Sirad is seeking the review and reversal of the Resolutions dated 18 January 2008^[1] and 12 March 2008^[2] of the Court of Appeals, dismissing her Petition for *Certiorari* in CA-G.R. SP No. 02103-MIN, for being the wrong mode of appeal, for her failure to state material dates as regards her Motion for Reconsideration before the Civil Service Commission (CSC), and for her failure to append a copy of said Motion for Reconsideration to her dismissed Petition. Petitioner intended to challenge in her Petition before the Court of Appeals (1) CSC Resolution No. 070875^[3] dated 7 May 2007, affirming the Decision dated 27 February 2006 of CSC Regional Office (CSCRO) No. XII, finding petitioner guilty of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, and dismissing petitioner from service; and (2) CSC Resolution No. 072196^[4] dated 26 November 2007, denying petitioner's Motion for Reconsideration.

The factual and procedural antecedents of the instant Petition are as follows:

On 4 February 2002, petitioner, an employee of the Commission on Audit (COA) in the Autonomous Region for Muslim Mindanao (ARMM), was formally charged by CSCRO No. XII with Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service. Pertinent portions of the Formal Charge against petitioner read:

The result of the investigation established the following facts:

1. On November 10, 1994, Pagayanan R. Hadji-Sirad, formerly Pagayanan M. Romero accomplished a Personal Data Sheet;
2. The said Personal Data Sheet was submitted to the Civil Service Field Office-COA to support her appointment as State Auditor I;
3. In Item number 18 of the Personal data Sheet, particularly on civil service eligibility, Hadji-Sirad indicated that she possesses Career Service Professional Eligibility having passed the examination on October 17, 1993 at Iligan City with a rating of 88.31%;

4. Accordingly, the examination records of Hadji-Sirad were retrieved. The same were compared with the entries in her Personal Data Sheet. It is revealed that:

4.1 Applicant and examinee Hadji-Sirad took the same as shown by the picture attached to the application form and picture seat plan for Room 003 Administration Building, Iligan City National High School, Iligan City. In fact, it is apparent that these pictures were taken from a single shot;

4.2 Comparison, however of these pictures with that found in the Personal Data Sheet of Hadji-Sirad dated November 10, 1994 reveals that appointee bears no semblance with applicant or examinee Hadji Sirad; Examinee Hadji Sirad looks older than the true Hadji Sirad despite the fact that the examination was conducted in 1993 while the Personal Data Sheet was accomplished in 1994;

4.3 There exist differences in the strokes used in affixing the signature in the picture seat plan compared with that in the personal data sheet. The examinee Hadji-Sirad used slanting strokes in affixing her signature while the appointee Hadji-Sirad utilized vertical strokes.

The foregoing facts and circumstances indicate that Pagayanan Romero Hadji-Sirad allowed another person to take the October 17, 1993 Career Service Professional Examination. This act undermines the integrity of civil service examinations and warrants the institution for administrative case against her for Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.

WHEREFORE, Pagayanan Romero Hadji-Sirad is hereby formally charged with Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.^[5]

A formal investigation was thereafter conducted.

The first hearing of the administrative case against petitioner was repeatedly postponed, upon petitioner's request, from the original date of 29 August 2002 to 16 October 2002, 20 December 2002, 14 January 2003, 20 March 2003, and 16 April 2003. During these instances, petitioner had been constantly warned that having utilized the allowable number of postponements, failure to attend the succeeding investigations could be taken as waiver of her right to present evidence.

On 2 April 2003, petitioner filed a Motion for Change of Venue of hearing of the case from CSCRO No. XII in Cotabato City, to CSCRO No. X in Cagayan de Oro City, averring that her lawyer was reluctant to go to Cotabato City due to its distance from Iligan City, as well as the unfavorable peace and order condition in Cotabato City; and also arguing that the *situs* of petitioner's alleged offense was in Iligan City, and not in Cotabato City. However, the CSC, in its Resolution No. 031139 dated 11

November 2003, denied petitioner's Motion.^[6]

The hearing of the case was again set on 19 February 2004. On said date, however, petitioner requested another postponement because she was attending an Echo-Seminar on Planning in Cotabato City. Petitioner sought further postponement of the hearings scheduled for 17 March and 31 March 2004.

Finally, petitioner and her counsel attended the hearings on 17 May 2004 and 23 September 2004, and the prosecution was able to present its evidence.

The prosecution presented evidence establishing that petitioner previously took, and failed, the Career Service (CS) Professional Examination held on 29 November 1992 at Room 26, Iligan Capitol College, Iligan City. She allegedly again took the CS Professional Examination on 17 October 1993. The prosecution, however, claimed that, while petitioner's pictures and signatures in her Application Form (AF) and Picture Seat Plan (PSP) for the CS Professional Examination on 29 November 1992 which she failed appeared similar to those in her PDS dated 10 November 1994, the pictures and signatures appearing in her AF and PSP for the CS Professional Examination on 17 October 1993 were different.

The prosecution then rested after its formal offer of evidence. It was petitioner's turn to present evidence in her defense.

Petitioner herself took the witness stand on 25 November 2004. Petitioner admitted that she previously took the CS Professional Examination on 29 November 1992, but she failed the same. She again applied for and actually took the CS Professional Examination on 17 October 1993, which she passed. Petitioner insisted that the pictures and signatures appearing in the AF and PSP for the CS Professional Examination on 17 October 1993 were all hers. She confirmed knowing Adelaida L. Casanguan (Casanguan), one of her witnesses, who also took the CS Professional Examination on 17 October 1993 at Room 003, Administration Building of the Iligan City National High School.

Casanguan, recounted that she took the CS Professional Examination on 17 October 1993 at Room 003, Administration Building of the Iligan City National High School, but she did not pass the same. She claimed that she knew petitioner, having seen the latter take the CS Professional Examination also on 17 October 1993 in the same room.

Petitioner's third and last witness was Dick U. Yasa (Yasa). Yasa, then Personnel Specialist II of CSCRO No. XII, testified that he personally got to know petitioner, an employee of COA-ARMM, and formerly Ms. Pagayanan Romero, since their offices previously shared the same building. Yasa was among those who assisted in the conduct of the CS Professional Examination held on 17 October 1993 in Iligan City. At around 7:00 to 7:30 in the morning of said date, Yasa alleged seeing petitioner in Room 003 of Iligan City National High School for the CS Professional Examination.

CSCRO No. XII rendered its Decision on 27 February 2006, the dispositive portion of which reads:

WHEREFORE, respondent Pagayanan Romero-Hadji Sirad is hereby found GUILTY of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service. She is hereby meted the penalty of DISMISSAL from the service. The accessory penalties of forfeiture of retirement benefits, cancellation of eligibility, prohibition from entering the government service and disqualification from taking future government examinations are likewise imposed.

Let copy of this Decision be furnished respondent and her counsel in their addresses on record; the Commission on Audit - Autonomous Region in Muslim Mindanao (COA-ARMM), Cotabato City; the Office for Legal Affairs (OLA), Civil Service Commission, Quezon City; the Civil Service Commission - Autonomous Region in Muslim Mindanao (CSC-ARMM), Cotabato City; the Government Service Insurance System (GSIS) - Cotabato Branch; and the Examination Services Division and Policies and Systems Evaluation Division, this Office, for information and appropriate action.^[7]

Petitioner's Motion for Reconsideration was denied by CSCRO No. XII in a Resolution^[8] dated 30 May 2006.

Aggrieved, petitioner appealed to the CSC.

In Resolution No. 070875 dated 7 May 2007, the CSC agreed in the findings of CSCRO No. XII, the *fallo* of which reads:

WHEREFORE, the appeal of Pagayanan R. Hadji-Sirad is hereby DISMISSED. Accordingly, the Decisions of the Civil Service Commission Regional Office No. XII dated February 27, 2006 finding Hadji-Sirad 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 and its accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, disqualification from holding public office and bar from taking any Civil Service examinations, and dated March 30, 2006 denying her Motion for Reconsideration, respectively, are hereby AFFIRMED.^[9]

The CSC denied petitioner's Motion for Reconsideration in CSC Resolution No. 072196 dated 26 November 2007. According to said Resolution:

The doctrine of *res ipsa loquitur* finds application in her case, as the evidence cannot lie. Worst, the [herein petitioner] did not present any controverting evidence sufficient enough to support her defense that indeed she was the same person appearing in the PSP and AF for the October 17, 1993 Career Service Professional Examination held in Iligan City and the one who actually took the said examination. The [petitioner] must remember that, although the very examination record in question was the October 17, 1993 Career Service Professional Examination,

reference was made in the November 22, 1992 Career Service Professional Examination records when it was confirmed that she took the same examination. In the November 22, 1992 Career Service Professional Examination records, the pictures attached to the PSP and AF and the signatures affixed thereon are very much similar to the picture and signature in her PDS. The conclusion drawn from all these is that Hadji-Sirad took the November 22, 1992 Career Service Examination but she did not take the October 17, 1993 examinations. These are not mere inferences but are simple truth strongly supported by the evidence on record.^[10]

The CSC, in the end, disposed:

WHEREFORE, the motion for reconsideration of Pagayanan R. Hadji-Sirad [petitioner] is hereby DENIED. Accordingly, Civil Service Commission Resolution No. 070875 dated May 7, 2007 finding her guilty of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, STANDS.^[11]

Unwavering, petitioner filed before the Court of Appeals a Petition for *Certiorari*^[12] under Rule 65 of the 1997 Revised Rules of Civil Procedure on the ground that the CSC Resolutions dated 7 May 2007 and 26 November 2007 were issued with grave abuse of discretion amounting to lack or in excess of jurisdiction. The Petition was docketed as CA-G.R. SP No. 02103-MIN.

On 18 January 2008, the Court of Appeals issued a Resolution dismissing the Petition in CA-G.R. SP No. 02103-MIN for being a wrong mode of appeal. Petitioner should have filed a petition for review under Rule 43, not a petition for *certiorari* under Rule 65 of the 1997 Revised Rules of Civil Procedure. The appellate court likewise dismissed the Petition for petitioner's failure to indicate therein the material date of filing of her Motion for Reconsideration before the CSC, and to append thereto the said Motion for Reconsideration, in violation of the second and third paragraphs of Section 3, Rule 46 of the 1997 Revised Rules of Civil Procedure.

Petitioner's Motion for Reconsideration was denied by the Court of Appeals in a Resolution dated 12 March 2008.

Petitioner comes before this Court *via* the present Petition for Review on *Certiorari*, posing the following issues for resolution:

WHETHER OR NOT RULE 65 IS THE PROPER REMEDY

WHETHER OR NOT THE COURT OF APPEALS IS CORRECT IN DISMISSING THE PETITION FOR *CERTIORARI* FILED BY PETITIONER BASED ON MERE TECHNICALITIES

WHETHER OR NOT THE CIVIL SERVICE COMMISSION COMMITTED GRAVE