

## EN BANC

**[ G.R. No. 177531, September 10, 2009 ]**

**CIVIL SERVICE COMMISSION, PETITIONER, VS. FATIMA A. MACUD, RESPONDENT.**

### DECISION

**LEONARDO-DE CASTRO, J.:**

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner seeks to set aside and annul the Decision<sup>[1]</sup> dated May 25, 2006 and the Resolution<sup>[2]</sup> dated April 12, 2007 rendered by the Court of Appeals (CA), in CA-G.R. SP No. 00480.

The CA decision set aside an earlier resolution<sup>[3]</sup> of the Civil Service Commission (CSC) Central Office as well as the decision<sup>[4]</sup> of Civil Service Commission Regional Office (CSCRO) XII which found respondent guilty of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service on the ground of lack of jurisdiction.

The undisputed facts, as found by the CA, are quoted hereunder:

As a requirement for her appointment as Teacher I of the Department of Education, Marawi City, petitioner FATIMA A. MACUD submitted her Personal Data Sheet (PDS) to the CSC Regional Office XII. Her declaration in the said PDS that she successfully passed the 23 October 1994 Professional Board Examination for Teachers (PBET) in Iligan City was the moving force which led to the instant controversy.

Investigations were thereupon conducted by CSC Regional Office XII (CSCRO XII) anent petitioner's PBET pursuant to its Standard Operating Procedure (SOP) to verify the eligibility of newly appointed teachers. Thereafter, on 27 November 2002, petitioner was formally charged with Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service before the same regional office, to wit:

1. On April 10, 2002, Fatima A. Macud was appointed as Teacher I of the Department of Education- Marawi City Division by City Schools Division Superintendent Olindang G. Dimaampao;
2. In support of her appointment, Macud submitted a copy of her Personal Data Sheet (PDS) dated January 25, 2002. In the said PDS, particularly in item no. 19

thereof, Macud claims to have taken and passed the October 23, 1994 Professional Board Examination for Teachers (PBET) in Iligan City with a rating of 76.26%;

3. As a standard operating procedure, this Office verified the claimed eligibility of Macud with her examination records, namely: the Application Form (AF) to the said examination and the Picture-Seat Plan (PSP) of Room No. 16 at St. Michael's College, Iligan City;

4. In the examination of Macud's PDS, the AF and the PSP, the following were revealed:

4.1 There is a disparity in Macud's date of birth as appearing in the AF and PSP as against her PDS accomplished on January 25, 2002. December 15, 1958 appeared as her date of birth in the AF and PSP while it is December 15, 1965 that appeared in her PDS;

4.2 A comparison of the facial features of Macud in the picture attached to her PDS vis-à-vis her features as shown in the picture attached to the AF and PSP shows an obvious dissemblance;

4.3 The signature of Macud as appearing in her PDS is likewise different from that affixed in her AF and PSP.

The foregoing facts clearly show that Macud deliberately allowed another person to take for and in her behalf the October 23, 1994 PBET in Iligan City.

WHEREFORE, Fatima A. Macud is hereby formally charged with Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service. Accordingly, she is given five (5) days from receipt hereof to submit to this Office a written answer under oath, together with the affidavit of her witnesses and documentary evidence, if any. She shall state whether she elects a formal investigation or waives the same. Respondent is also informed of her right to engage the service of a counsel of her choice.

In her Answer, petitioner asserted that she personally took the PBET on 23 October 1994 in Iligan City. While she admitted item nos. 1, 2, 4.1, 4.3 of the formal charge filed against her, *supra*, petitioner vehemently denied item no. 4.2 by alleging that the dissemblance of her picture attached to her AF and PSP from her picture pasted on her PDS was because the two pictures were taken on two different occasions, i.e., her picture in the AF and PSP was taken in 1993 while that of the PDS was taken in 2002, roughly nine (9) years apart from each other. Anent the disparity in her signatures, petitioner reasoned out that it was the result

of the change of her status, *i.e.*, she eventually got married and had to use the surname of her husband. With respect to her date of birth, she alleged that her known and recognized date of birth prior and up to 1994 was 15 December 1958. Thereafter, she was informed that her correct date of birth is 15 December 1965, as indicated in her PDS dated 25 January 2002.

On 19 August 2003, CSCRO XII conducted a formal investigation. However, petitioner failed to attend. Nevertheless, the investigation proceeded with the presentation of documentary evidence against her, viz: Application Form filled out by Fatima Ali on 23 October 1994 for the PBET; Picture-Seat Plan (PSP) of Room #16, St. Michael's College, Iligan City; Personal Data Sheet (PDS) of Fatima Ali-Macud dated 25 January 2002; Appointment of Fatima Ali-Macud as Teacher I (Regular Permanent) in the Department of Education-Division of Marawi City issued by Supt. Olindang G. Dimaampao dated 10 April 2002; Personal Data Sheet (PDS) of Fatima C. Ali dated 1 November 1987.

On 27 January 2004, the CSCRO XII rendered a Decision, the dispositive portion thereof reads:

WHEREFORE, Fatima A. Macud is hereby found guilty of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service. Accordingly, she should be meted the penalty of dismissal from the service with all the accessory penalties, including perpetual disqualification from holding public office in the future. Furthermore, the Civil Service eligibility of Macud is hereby revoked and cancelled.

Let copies of this Decision be furnished the respondent in her address on record; the Division Superintendent, Department of Education (DepEd) - Iligan City Branch; the Office for Legal Affairs (OLA), Civil Service Commission (CSC); the Civil Service Commission Field Office (CSCFO) for Lanao del Sur and Marawi City; the Personnel Inspection and Audit Division (PIAD) and the Examination and Placement Services Division (EPSD), both of this Office, for their information.

The petitioner's motion for reconsideration of the Decision, *supra*, was denied by the CSCRO XII on 23 March 2004.

On her Appeal to the CSC Central Office, petitioner raised the following issues:

1. Whether or not the Civil Service Commission-Regional Office No. XII, Cotabato City, has jurisdiction over the person of the respondent-appellant and, therefore has jurisdiction to try and decide the case;

2. Whether or nor respondent-appellant committed, in fact and in law, the charges of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of Service;
3. Whether or not the PBET Civil Service Eligibility can be revoked and cancelled *motu proprio* without the benefit of basic due process requirements of notice and hearing.

On 15 June 2005, the CSC rendered Resolution No. 050780, denying petitioner's appeal, the fallo thereof states:

WHEREFORE, the appeal of Fatima A. Macud is hereby DISMISSED. Accordingly, the Civil Service Commission Regional Office No. XII Decisions dated January 27, 2004, finding her guilty of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of Service, and dated March 23, 2004 denying Macud's motion for reconsideration are hereby AFFIRMED.<sup>[5]</sup>

Aggrieved with the ruling of the CSC, respondent Macud elevated the matter to the CA by way of a petition for certiorari, docketed as *CA-G.R. SP No. 00480*. In support of her CA petition, respondent raised the following arguments:

(a) It was not the CSCRO XII that had jurisdiction over the case and person of respondent but the CSCRO XVI (ARMM) since respondent was assigned to a public school located in Marawi City within the territorial jurisdiction of the Autonomous Region of Muslim Mindanao (ARMM).

(b) There was no substantial evidence to prove the charges against respondent, since (i) no witnesses were presented to authenticate the photographs in the various forms used by the CSC in determining respondent's guilt; (ii) no expert evidence was presented to determine the genuineness of the handwriting/signatures in the questioned forms; and (iii) the true birth date of respondent was never established by convincing proof such as her birth certificate.

On December 13, 2001, the CA promulgated its assailed decision granting respondent's petition and setting aside the decisions of the CSC Central Office and CSCRO XII on the sole ground of lack of jurisdiction. In so ruling, the CA declared:

[T]he CSC has no jurisdiction to hear and decide the instant case. xxx Republic Act No. 4670 or the *Magna Carta* for Public School Teachers of 1966 is the law in point.

x x x

In *Armand Fabella, et al vs. Court of Appeals, et al*, the Supreme Court emphatically ruled that RA 4670, otherwise known as the Magna Carta for Public School Teachers, specifically covers and governs administrative proceedings involving public school teachers. x x x

Although under Presidential Decree No. 807 (PD 807) or the Civil Service Law, the Civil Service embraces every branch, agency, subdivision, and instrumentality of the government, including government-owned or controlled corporations whether performing governmental or proprietary function, the CSC does not have original jurisdiction over an administrative case against public school teacher. Jurisdiction over administrative cases of public school teachers is lodged with the Investigating Committee created pursuant to Section 9 of RA 4670, supra, now being implemented by Section 2, Chapter VII of DECS Order No. 33, S. 1999, otherwise known as the DECS Rules of Procedure.

x x x

Certainly as petitioner is covered by RA 4670, it is the Investigating Committee that should have investigated her case conformably with Section 9 of RA 4670, supra, and not the CSC. Thus, all proceedings undertaken by the latter with respect to the instant case are necessarily void.<sup>[6]</sup>

Petitioner's subsequent motion for reconsideration was denied by the CA in its Resolution dated April 12, 2007.

Hence, the instant petition anchored on the following grounds:

## I

The Honorable Court of Appeals erred in ruling that the Investigating Committee formed under R.A. 4670 has exclusive jurisdiction to try the administrative case against respondent.

## II

The Honorable Court of Appeals erred in holding that respondent is not estopped from impugning the jurisdiction of the CSC on the ground that lack of jurisdiction could be assailed at anytime of the proceedings.

Petitioner asserts that it has jurisdiction to take cognizance of the case against respondent pursuant to Presidential Decree (P.D.) No. 807 (Civil Service Law), which provides that the civil service embraces every branch, agency, subdivision and instrumentality of the government,<sup>[7]</sup> and Executive Order (E.O.) No. 292 (Administrative Code of 1987), which grants the CSC the power to hear and decide administrative cases instituted by it directly.<sup>[8]</sup> Petitioner also avers that respondent is estopped from assailing the jurisdiction of the CSC after having participated in the proceedings therein.

On the other hand, respondent maintains that as a teacher, jurisdiction over the administrative case against her is lodged with a committee constituted under Section 9 of Republic Act (R.A.) No. 4670 (*Magna Carta* for Public School Teachers) and not with the CSC, because R.A. No. 4670 specifically governs administrative