

EN BANC

[G.R. No. 167916, August 26, 2008]

SARAH P. AMPONG, PETITIONER, VS. CIVIL SERVICE COMMISSION, CSC-REGIONAL OFFICE NO. 11, RESPONDENT.

DECISION

REYES, R.T., J.:

CAN the Civil Service Commission (CSC) properly assume jurisdiction over administrative proceedings against a judicial employee involving acts of dishonesty as a teacher, committed **prior** to her appointment to the judiciary?

Before Us is a petition for review on *certiorari* assailing the Decision^[1] of the Court of Appeals (CA) affirming the CSC's exercise of administrative jurisdiction over petitioner.

The Facts

The following facts are uncontroverted:

On November 10, 1991, a Professional Board Examination for Teachers (PBET)^[2] was held in Davao City. A certain Evelyn Junio-Decir^[3] applied for and took the examination at Room 16, Kapitan Tomas Monteverde Elementary School. She passed with a rating of 74.27%.^[4]

At the time of the PBET examinations, petitioner Sarah P. Ampong (nee Navarra) and Decir were public school teachers under the supervision of the Department of Education, Culture and Sports (DECS).^[5] Later, on August 3, 1993, Ampong transferred to the Regional Trial Court (RTC) in Alabel, Sarangani Province, where she was appointed as Court Interpreter III.

On July 5, 1994, a woman representing herself as Evelyn Decir went to the Civil Service Regional Office (CSRO) No. XI, Davao City, to claim a copy of her PBET Certificate of Eligibility. During the course of the transaction, the CSRO personnel noticed that the woman did not resemble the picture of the examinee in the Picture Seat Plan (PSP). Upon further probing, it was confirmed that the person claiming the eligibility was different from the one who took the examinations. It was petitioner Ampong who took and passed the examinations under the name Evelyn Decir.

The CSRO conducted a preliminary investigation and determined the existence of a *prima facie* case against Decir and Ampong for Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service. On August 23, 1994, they

were formally charged and required to file answers under oath. The formal charge reads:

That sometime before the conduct of the November 10, 1991 Professional Board Examination for Teachers (PBET), a certain Ms. Evelyn B. Junio (now Decir) took the said examination at Rm. 16 Kapitan Tomas Monteverde Elementary School, Davao City, with a passing rate of 74.27%; That on July 5, 1994 she appeared before the CSC Region XI Office to get her Guro Certificate; That upon verification, it was found out that the picture attached in the Picture Seat Plan, marked as Annex "A" and "A-1," respectively, were not the same compared to the picture attached in the CSC Form 212 of Evelyn Junio-Decir marked herein as annex "B," "B-1," respectively. There was also a marked difference in the signatures affixed in the said annexes; *That further investigations revealed that it was the pictures of Ms. Sarah Navarra, wife of her husband's first cousin, who took the said examination in behalf of Ms. Evelyn Junio-Decir, a provisional teacher; That the said act of Mesdames Decir and Navarra are acts of dishonesty and conduct prejudicial to the best interest of the service; that in (sic) taking the CS examination for and in behalf of another undermines the sanctity of the CS examinations; All these contrary to existing civil service laws and regulations. (Emphasis supplied)*

In her sworn statement dated November 3, 1994, Decir denied the charges against her. She reasoned out that it must have been the examination proctor who pasted the wrong picture on the PSP and that her signatures were different because she was still signing her maiden name at the time of the examination. In her Answer, Decir contended that:

2. The same accusation is denied, the truth being:

- a. When I took the Professional Board Examination for Teachers (PBET) in the year 1991, I handed my 1x1 I.D. picture to the proctor assigned in the examination room who might have inadvertently pasted in the Seat Plan [the] wrong picture instead [of] my own picture;
- b. With respect to the marked difference in my signature both appearing in the aforesaid Seat Plan and also with the Form 212, the disparity lies in that in the year 1991, when I took the aforesaid examination, I was still sporting my maiden name Evelyn B. Junio in order to coincide with all my pertinent supporting papers, like the special order (s.o.), appointment and among others, purposely to take said communications. However, immediately after taking the PBET Examination in 1991, I started using the full name of Evelyn Junio-Decir.^[6]

Even before filing an Answer, petitioner Ampong voluntarily appeared at the CSRO on February 2, 1995 and admitted to the wrongdoing. When reminded that she may avail herself of the services of counsel, petitioner voluntarily waived said right.

On March 13, 1995, petitioner gave another admission in the following tenor:

Q: Now, what is then your intention in coming to this Region inasmuch as you are still intending to file an answer to the formal charge?

A: *I came here because I want to admit personally. So that I will not be coming here anymore. I will submit my case for Resolution.*

Q: So, you intend to waive your right for the formal hearing and you also admit orally on the guilt of the charge on the Formal Charge dated August 24, 1994?

A: Yes, Ma'am.

Q: What else do you want to tell the Commission?

A: x x x Inasmuch as I am already remorseful, I am repenting of the wrong that I have done. I am hoping that the Commission can help x x x so that I will be given or granted another chance to serve the government.

x x x x

Q: Now inasmuch as you have declared that you have admitted the guilt that you took the examination for and in behalf of Evelyn Junio Decir, are you telling this to the Commission without the assistance of the counsel or waiver of your right to be assisted by counsel.

A: Yes, Ma'am. I am waiving my right.^[7] (Emphasis supplied)

Petitioner reiterated her admission in her sworn Answer dated March 16, 1995:

3. That, during the commission of the act, I was still under the Department of Education, Culture and Sports, as Teacher in-charge of San Miguel Primary School, Malungon North District, way back in 1991, when *the husband of Evelyn Junio-Decir, my husband's cousin came to me and persuaded me to take the examination in behalf of his wife to which I disagreed but he earnestly begged so that I was convinced to agree because I pity his wife* considering that she is an immediate relative, and there was no monetary consideration involved in this neither a compensatory reward for me, as I was overcome by their persuasion;
4. That, despite the fact that I was a teacher, I was not aware that the acts I was charged, is a ground for disciplinary action and punishable by dismissal;
5. That I should not have conformed to this anomalous transaction considering that I was born in a Christian family, and was brought up in the fear of Lord, and had been a consistent officer of the Church Board, had been a religious leader for so many years, and had been the organizer of the Music Festival of the Association of Evangelical Churches of Malungon, Sarangani Province, thus I was devoted to church work and was known to be of good conduct; and that my friends and acquaintances can vouch to that, *but I was just*

forced by circumstances to agree to the spouses Godfre and Evelyn Decir.^[8] (Emphasis added)

CSC Finding and Penalty

On March 21, 1996, the CSC found petitioner Ampong and Decir guilty of dishonesty, dismissing them from the service. The dispositive part of the CSC resolution states:

WHEREFORE, the Commission hereby finds Evelyn J. Decir and Sarah P. Navarra guilty of Dishonesty. Accordingly, they are meted the penalty of dismissal with all its accessory penalties. The PBET rating of Decir is revoked.^[9]

Petitioner moved for reconsideration, raising for the first time the issue of jurisdiction.^[10] She argued that the exclusive authority to discipline employees of the judiciary lies with the Supreme Court; that the CSC acted with abuse of discretion when it continued to exercise jurisdiction despite her assumption of duty as a judicial employee. She contended that at the time the case was instituted on August 23, 1994, the CSC already lost jurisdiction over her. She was appointed as Interpreter III of the RTC, Branch 38, Alabel, Sarangani Province on August 3, 1993.

The CSC denied the motion for reconsideration.^[11] According to the Commission, to allow petitioner to evade administrative liability would be a mockery of the country's administrative disciplinary system. It will open the floodgates for others to escape prosecution by the mere expedient of joining another branch of government. In upholding its jurisdiction over petitioner, the CSC differentiated between administrative supervision exercised by the Supreme Court and administrative jurisdiction granted to the Commission over all civil service employees:

Moreover, it must be pointed out that administrative supervision is distinct from administrative jurisdiction. *While it is true that this Commission does not have administrative supervision over employees in the judiciary, it definitely has concurrent jurisdiction over them.* Such jurisdiction was conferred upon the Civil Service Commission pursuant to existing law specifically Section 12(11), Chapter 3, Book V of the Administrative Code of 1987 (Executive Order No. 292) which provides as follows:

"(11) Hear and decide administrative cases instituted by or through it directly or on appeal, including contested appointment, and review decisions and actions of its offices and of the agencies attached to it x x x."

The fact that court personnel are under the administrative supervision of the Supreme Court does not totally isolate them from the operations of the Civil Service Law. Appointments of all officials and employees in the judiciary is governed by the Civil Service Law (Section 5(6), Article VIII, 1987 Constitution). (Emphasis supplied)

CA Disposition

Via petition for review under Rule 43, petitioner elevated the matter to the CA.^[12] She insisted that as a judicial employee, it is the Supreme Court and not the CSC that has disciplinary jurisdiction over her.

In a Decision dated November 30, 2004,^[13] the CA denied the petition for lack of merit.

The CA noted that petitioner never raised the issue of jurisdiction until after the CSC ruled against her. Rather, she willingly appeared before the commission, freely admitted her wrongdoing, and even requested for clemency. Thus, she was estopped from questioning the Commission's jurisdiction. The appellate court opined that while lack of jurisdiction may be assailed at any stage, a party's active participation in the proceedings before a court, tribunal or body will estop such party from assailing its jurisdiction.

The CA further ruled that a member of the judiciary may be under the jurisdiction of two different bodies. As a public school teacher or a court interpreter, petitioner was part of the civil service, subject to its rules and regulations. When she committed acts in violation of the Civil Service Law, the CSC was clothed with administrative jurisdiction over her.

Issue

Petitioner, through this petition, assigns the lone error that:

The Honorable Court of Appeals-First Division decided a question of substance in a way not in accord with law and jurisprudence, gravely erred in facts and in law, and has sanctioned such departure and grave error because it **ignored** or was not aware of *Garcia v. De la Peña*, 229 SCRA 766 (1994) and Adm. Matter No. OCA I.P.I. 97-329-P (*CSC v. Ampong*) dated January 31, 2001, which reiterate **the rule that exclusive authority to discipline employees of the judiciary lies with the Supreme Court**, in issuing the questioned decision and resolution; which grave error warrant reversal of the questioned decision and resolution.^[14]

Put simply, the issue boils down to whether the CSC has administrative jurisdiction over an employee of the Judiciary for acts committed while said employee was still with the Executive or Education Department.

Our Ruling

The answer to the question at the outset is in the negative but We rule against the petition on the ground of estoppel.

It is true that the CSC has administrative jurisdiction over the civil service. As defined under the Constitution and the Administrative Code, the civil service embraces every branch, agency, subdivision, and instrumentality of the government, and government-owned or controlled corporations.^[15] Pursuant to its administrative authority, the CSC is granted the power to "control, supervise, and coordinate the Civil Service examinations."^[16] This authority grants to the CSC the