

EN BANC

[G.R. No. 137473, August 02, 2001]

ESTELITO V. REMOLONA, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

DECISION

PUNO, J.:

The present petition seeks to review and set aside the Decision rendered by the Court of Appeals dated July 31, 1998^[1] upholding the decision of the Civil Service Commission which ordered the dismissal of petitioner Estelito V. Remolona (Remolona) from the government service for dishonesty, and the Resolution dated February 5, 1999^[2] denying petitioner's motion for reconsideration.

Records show that petitioner Estelito V. Remolona is the Postmaster at the Postal Office Service in Infanta, Quezon, while his wife Nery Remolona is a teacher at the Kiborosa Elementary School.

In a letter^[3] dated January 3, 1991, Francisco R. America, District Supervisor of the Department of Education, Culture & Sports at Infanta, Quezon, inquired from the Civil Service Commission (CSC) as to the status of the civil service eligibility of Mrs. Remolona who purportedly got a rating of 81.25% as per Report of Rating issued by the National Board for Teachers.^[4] Mr. America likewise disclosed that he received information that Mrs. Remolona was campaigning for a fee of P8,000.00 per examinee for a passing mark in the teacher's board examinations.

On February 11, 1991, then CSC Chairman Patricia A. Sto. Tomas issued an Order directing CSC Region IV Director Bella Amilhasan to conduct an investigation on Mrs. Remolona's eligibility, after verification from the Register of Eligibles in the Office for Central Personnel Records revealed "that Remolona's name is not in the list of passing and failing examinees, and that the list of examinees for December 10, 1989 does not include the name of Remolona. Furthermore, Examination No. 061285 as indicated in her report of rating belongs to a certain Marlou C. Madelo, who took the examination in Cagayan de Oro and got a rating of 65.00%."^[5]

During the preliminary investigation conducted by Jaime G. Pasion, Director II, Civil Service Field Office, Lucena City, Quezon, only petitioner Remolona appeared. He signed a written statement of facts^[6] regarding the issuance of the questioned Report of Rating of Mrs. Remolona, which is summarized in the Memorandum^[7] submitted by Director Pasion as follows:

"3.1 That sometime in the first week of September, 1990, while riding in a Kapalaran Transit Bus from Sta. Cruz, Laguna on his way to San Pablo

City, he met one Atty. Hadji Salupadin (this is how it sounded) who happened to be sitting beside him;

3.2 That a conversation broke out between them until he was able to confide his problem to Atty. Salupadin about his wife having difficulty in acquiring an eligibility;

3.3 That Atty. Salupadin who represented himself as working at the Batasan, offered his help for a fee of P3,000.00;

3.4 That the following day they met at the Batasan where he gave the amount of P2,000.00, requirements, application form and picture of his wife;

3.5 That the following week, Thursday, at around 1:00 P.M., they met again at the Batasan where he handed to Atty. Salupadin the amount of P1,000.00 plus P500.00 bonus who in turn handed to him the Report of Rating of one Nery C. Remolona with a passing grade, then they parted;

3.6 That sometime in the last week of September, he showed the Report of Rating to the District Supervisor, Francisco America who informed her (sic) that there was no vacancy;

3.7 That he went to Lucena City and complained to Dr. Magsino in writing x x x that Mr. America is asking for money in exchange for the appointment of his wife but failed to make good his promise. He attached the corroborating affidavits of Mesdames Carmelinda Pradillada and Rosemarie P. Romantico and Nery C. Remolona x x x;

3.8 That from 1986 to 1988, Mr. America was able to get six (6) checks at P2,600.00 each plus bonus of Nery C. Remolona;

3.9 That Mr. America got mad at them. And when he felt that Mr. America would verify the authenticity of his wife's Report of Rating, he burned the original."

Furthermore, Remolona admitted that he was responsible in acquiring the alleged fake eligibility, that his wife has no knowledge thereof, and that he did it because he wanted them to be together. Based on the foregoing, Director Pasion recommended the filing of the appropriate administrative action against Remolona but absolved Mrs. Nery Remolona from any liability since it has not been shown that she willfully participated in the commission of the offense.

Consequently, a Formal Charge dated April 6, 1993 was filed against petitioner Remolona, Nery C. Remolona, and Atty. Hadji Salupadin for possession of fake eligibility, falsification and dishonesty.^[8] A formal hearing ensued wherein the parties presented their respective evidence. Thereafter, CSC Regional Director Bella A. Amilhasan issued a Memorandum dated February 14, 1995^[9] recommending that the spouses Estelito and Nery Remolona be found guilty as charged and be meted the corresponding penalty.

Said recommendation was adopted by the CSC which issued Resolution No. 95-2908 on April 20, 1995, finding the spouses Estelito and Nery Remolona guilty of dishonesty and imposing the penalty of dismissal and all its accessory penalties. The case against Atty. Hadji Salupadin was held in abeyance pending proof of his identity.^[10] In its Resolution No. 965510^[11] dated August 27, 1996, the CSC, acting on the motion for reconsideration filed by the spouses Remolona, absolved Nery Remolona from liability and held that:

"Further, a review of the records and of the arguments presented fails to persuade this Commission to reconsider its earlier resolution insofar as Estelito Remolona's culpability is concerned. The evidence is substantial enough to effect his conviction. His act of securing a fake eligibility for his wife is proved by substantial evidence. However, in the case of Nery Remolona, the Commission finds her innocent of the offense charged, for there is no evidence to show that she has used the fake eligibility to support an appointment or promotion. In fact, Nery Remolona did not indicate in her Personal Data Sheet that she possesses any eligibility. It must be pointed out that it was her husband who unilaterally worked to secure a fake eligibility for her.

WHEREFORE, the instant Motion for Reconsideration is hereby denied insofar as respondent Estelito Remolona is concerned. However, Resolution No. 95-2908 is modified in the sense that respondent Nery Remolona is exonerated of the charges. Accordingly, Nery Remolona is automatically reinstated to her former position as Teacher with back salaries and other benefits."

On appeal, the Court of Appeals rendered its questioned decision dismissing the petition for review filed by herein petitioner Remolona. His motion for reconsideration and/or new trial was likewise denied. Hence, this petition for review.

Petitioner submits that the Court of Appeals erred:

- "1. in denying petitioner's motion for new trial;
2. in holding that petitioner is liable for dishonesty; and
3. in sustaining the dismissal of the petitioner for an offense not work connected in relation to his official position in the government service."

The main issue posed for resolution is whether a civil service employee can be dismissed from the government service for an offense which is not work-related or which is not connected with the performance of his official duty. Remolona likewise imputes a violation of his right to due process during the preliminary investigation because he was not assisted by counsel. He claims that the extra-judicial admission allegedly signed by him is inadmissible because he was merely made to sign a blank form. He also avers that his motion for new trial should be granted on the ground that the transcript of stenographic notes taken during the hearing of the case before