

EN BANC

[G.R. No. 134441, May 19, 1999]

**INDALICIO P. CONTI, PETITIONER, VS. HON. COURT
OF APPEALS, CIVIL SERVICE COMMISSION AND POLYTECHNIC
UNIVERSITY OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

VITUG, J.:

Petitioner Indalicio Conti would seek to nullify in this petition for *certiorari* and *mandamus* the resolution, dated 13 May 1998, of the Court of Appeals which dismissed his petition thereat for *certiorari*, prohibition and *mandamus* assailing the resolution, dated 02 November 1995, of the Civil Service Commission ("CSC"). In its aforesaid resolution, CSC dismissed petitioner Conti from the service.

Gathered from the pleadings, along with the annexes, and the assailed decision of the appellate court, the following sequence of events would appear to have taken place.

Sometime in 1989, the Polytechnic University of the Philippines ("PUP") appointed petitioner Indalicio P. Conti, Assistant Professor IV, under National Compensation Circular ("NCC") 33. The circular, intended to be the *criteria* in ranking the faculty members in state universities and colleges, was issued by the Philippine Association of State Universities and Colleges ("PASUC").

On 05 November 1992, Conti was one of the faculty members who filed with the Human Resource Management Division ("HRMD") of PUP a personal data sheet required of members of the faculty who were reclassified or promoted under NCC 68 which amended NCC 33. Conti, on the basis of points previously earned, was reclassified from Assistant Professor IV to Professor I under NCC 68. For his "points" to be formally recognized that would earn his promotion to Professor I, he had to submit himself to written and oral examinations conducted by the PASUC evaluators who were tasked to make the due accreditation. The evaluation by the PASUC evaluators took place the following year.

On 05 March 1993, Conti received a memorandum from the chairman of the Accreditors/Evaluators, directing him to present himself for IAC Evaluation. He was also required to submit a personal data sheet which he forthwith did. Conti undertook the tests conducted by the accreditation/evaluation committee. The result of the accreditation/evaluation showed that Conti placed eight ("8th") among the candidates and was thereby reclassified from Assistant Professor IV to Professor I. On 01 July 1993, Dr. Zenaida A. Olonan, President of PUP, issued an appointment paper to Conti, confirming his promotional appointment with Dionisia P. Pingol, Director II of CSFO-NCR, signing below the name of Dr. Olonan for the CSC.

During the first week of December 1993, Miss Dionisia P. Pingol sent a letter, dated 02 December 1993, to Dr. Zenaida Olonan asking for a copy of Conti's MBA diploma or transcript of records in order to verify an "information" she had received to the effect that Mr. Conti was not a masteral degree holder. When furnished with a copy of the letter of Ms. Pingol, Conti sent a written reply, dated 11 December 1993, contending that a masteral degree was not a requisite for the position of Professor I under NCC 68.

On 25 April 1994, Ms. Benita O. Santos, Director IV of CSC-NCR, formally charged Conti with dishonesty which, in part, read:

"That in support of your promotional appointment to the position of Professor I, Polytechnic University of the Philippines (PUP), you represented in your Personal Data Sheet that you finished Masteral degree in Business Administration (MBA), however, after verification and evaluation of your transcript of records, it was found out that you are not a graduate of MBA as you alleged. It would appear then that you misrepresented yourself to be an MBA degree holder. Such act is contrary to Civil Service law and rules."^[1]

Upon his receipt of a copy of the charge, Conti filed an answer with an explanation that since a masteral degree was not necessary for the promotion of a faculty member to professorial level under PASUC Evaluation Guidelines used in NCC 33, as amended by NCC 68, he had not benefited nor gained an undue advantage over other faculty members. He averred that it was given the limited time in the preparation of supporting papers for his reclassification, an honest mistake on his part.

The CSC conducted a hearing and after the parties had submitted their respective pieces of evidence, a resolution,^[2] dated 02 November 1995, was issued by the CSC, certain pertinent portions of which read:

"By writing 'MBA' in his Personal Data Sheet (PDS), respondent intended to impress upon the reader, without further qualifications like for a number of units only or without thesis, especially the evaluators of his appointment papers that he is a graduate of MBA. The defense that he did not claim completion of the aforesaid degree but only for 'units' of the same deserves no consideration. No proof was ever presented to substantiate his defense. At most, it was a mere afterthought, for otherwise he would have written the number of units he earned leading to said Masteral degree. Failing to do so, one cannot help but conclude that the omission is intentional, deliberate and adopted by the respondent to support his appointment as Professor I.

"On the basis of respondents misrepresentation, the Chief, Personnel Division, PUP, was led to believe that Conti is qualified for appointment to the subject position.

"Respondent ought to know the distinction between the word/phrase 'MBA' and 'MBA units.' Accomplishment or a filling up of public documents, such as the PDS must be done correctly and accurately. Any

misrepresentation in a material fact made with deliberate intent to mislead and to take undue advantage is plain dishonesty."^[3]

Concluding, the CSC, in the dispositive portion of its resolution, held Conti guilty of dishonesty; thus:

"WHEREFORE, Indalicio P. Conti is hereby found guilty of Dishonesty. Accordingly, he is meted out the penalty of dismissal from the service with all its accessory penalties. CSC-NCR, however, is thus directed to recall the approval of said appointment of Conti as Professor I, Polytechnic University of the Philippines."^[4]

On 13 December 1995, Conti moved for a reconsideration of the CSC resolution.

Several letters were thereafter sent by Conti to CSC calling its attention to his pending motion for reconsideration. On 13 June 1995, Conti filed a formal motion for the resolution of his plea for reconsideration. Still, the CSC had not acted. On 23 February 1998, Conti finally filed with this Court a petition for *certiorari*, prohibition and *mandamus*, docketed G.R. No. 132531, in which he contended that -

"x x x (t)he CSC acted without jurisdiction when it heard, tried, and decided the instant case as a court of origin;

"x x x (t)he CSC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it found the petitioner guilty of dishonesty; and

"x x x (t)he CSC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it has not acted for more than a year on the petitioner's motion for reconsideration/new trial."^[5]

In a resolution, dated 03 March 1998, the Court referred the petition to the Court of Appeals. In its now challenged resolution, the appellate court dismissed the petition for *certiorari*, prohibition and *mandamus* for having been filed out of time, thusly:

"For having been filed out of time, this petition for certiorari, prohibition and mandamus, which was originally filed with but referred to this Court by the Honorable Supreme Court, must have to be DENIED DUE COURSE.

"As no less admitted in the petition itself (at page one thereof), petitioner received copy of the assailed Resolution of the respondent Civil Service Commission (CSC) on `06 December 1995.' Under Supreme Court (SC) Revised Circular No. 1-91, as amended by SC Revised Administrative Circular No. 1-95, now incorporated in Rule 43 of the 1997 Rules of Civil Procedure, appeals from judgments, final orders or resolutions or quasi-judicial agencies, like the Civil Service Commission, shall be taken to the Court of Appeals by way of a petition for review within fifteen (15) days from notice of the assailed judgment, order or resolution (Mateo vs. Court of Appeals, 247 SCRA 284 ^[1995]).

"With the very admission by the petitioner himself that copy of the challenged CSC Resolution was received by him way back on December