

TWELFTH DIVISION

[CA-G.R. SP No. 132950, March 10, 2015]

NONNETTE LEGASPI-VILLANUEVA, PETITIONER, VS. CIVIL SERVICE COMMISSION AND ROMEO A. JARAMILLA, RESPONDENTS.

D E C I S I O N

MACALINO, J:

Before this Court is a Petition for Review^[1] under Rule 43 of the Rules of Court assailing the Decision^[2] ("Assailed Decision") of the Civil Service Commission ("CSC") dated July 25, 2013 and the Resolution^[3] dated November 11, 2013 ("Assailed Resolution") finding petitioner guilty of Serious Dishonesty. The decretal portion of the Assailed Decision states:

"**WHEREFORE**, foregoing premises considered, the petition for review of Nonnette L. Villanueva, Chief, Labor and Employment Officer, Regional Center for Luzon, Philippine Overseas Employment Administration, San Fernando City, La Union, is hereby **DISMISSED**. Accordingly, the Decision Number 2011-072 dated July 13, 2011 of the Civil Service Commission Regional Office No. I, San Fernando City, La Union, finding her guilty of Less Serious Dishonesty and imposing upon her the penalty of nine (9) months suspension, and the Resolution No. D-2011-080 dated November 4, 2011, denying her motion for reconsideration, are **MODIFIED** to the extent that she is liable for Serious Dishonesty and imposed the penalty of dismissal from the service with all the accessory penalties of forfeiture of retirement benefits, perpetual disqualification from reemployment in the government service, cancellation of eligibility, and bar from taking future civil service examination.

Copies of this Decision shall be furnished the Integrated Records Management Office (IRMO), this Commission, Commission on Audit (COA) and Government Service Insurance System (GSIS)."^[4]

Whereas, the dispositive portion of the Assailed Resolution reads:

"**WHEREFORE**, foregoing premises considered, the motion for reconsideration of Nonnette L. Villanueva, Chief, Labor and Employment Officer, Regional Center for Luzon, Philippine Overseas Employment Administration, San Fernando City, La Union, is hereby **DENIED**. Accordingly, the Civil Service Commission Decision No. 13-0772 dated July 25, 2013, finding her guilty of Serious Dishonesty and imposing upon her the penalty of dismissal from the service with all the accessory penalties of forfeiture of retirement benefits, perpetual disqualification

from reemployment in the government service, cancellation of eligibility, and bar from taking future civil service examination, **STANDS.**"^[5]

Antecedent Facts

Nonnette Villanueva ("petitioner"), in her capacity as Chief, Labor and Employment Officer, Regional Center for Luzon, POEA receives a monthly Representation and Transportation Allowance (RATA) of seven thousand pesos (PhP7,000.00) since April 2003.^[6]

In June 2008, a government vehicle with plate number SFG 646^[7] was issued to POEA-Regional Center for Luzon in the implementation of its multifarious programs.^[8] The vehicle, a Tamaraw Revo GLX was received by petitioner and one Reynaldo E. Cabrera on June 12, 2008 as shown by the Acknowledgment Receipt^[9] for the said vehicle.

On April 7, 2009, Romeo Jaramilla ("private respondent"), designated Administrative Officer, Regional Center for Luzon, POEA, filed a complaint^[10] before the Civil Service Commission Regional Office No. 1 ("CSC Regional Office No. 1") against petitioner for violation of Section 28 of Republic Act No. 6688, otherwise known as the General Appropriations Act of 1989 and Dishonesty. He alleged that petitioner issued certifications^[11] that she did not use any government vehicle from July 2008 to February 2009, in order to claim her RATA in full.^[12]

On the contrary, it appears that from July 2008 to February 2009, petitioner used the vehicle assigned to their office as evidenced by the Driver's Trip Tickets^[13] covering the said period. The disbursement vouchers^[14] also showed that she received her RATA in full from July 2008 to February 2009.^[15]

When asked to comment on the charges laid, petitioner explained^[16] that she made use of the vehicle only for official purposes. She vehemently denied the allegations of private respondent, adding that the latter was getting back at her since she previously confronted him for his illegal and unlawful use of the said vehicle for his own personal travel to San Gabriel, La Union on September 28, 2008, which is a Sunday under the guise of an "Official Travel."

After preliminary investigation, the CSC-Regional Office No. 1 issued a formal charge^[17] on October 27, 2009 for Less Serious Dishonesty, committed as follows:

"1. That Nonnette L. Villanueva as Chief, Philippine Overseas Employment Administration, Regional Center for Luzon, San Fernando City, La Union, receives a monthly RATA of P7,000.00;

2. That Nonnette L. Villanueva used office vehicle with Plate No. SFG 646 as shown by the Driver's Trip Tickets dated July 16, 2008, August 5, 2008, September 29, 2008-October 1, 2008, October 3, 2008, December 3, 2008, December 5, 2008, January 15, 2009, and February 17, 2009;

3. That, however, in her Certification for Representation and Travel Allowance for the months July 2008 to February 2009, Nonnette L.

Villanueva certified that she did not use any government vehicle, while in fact, she did.

The act of Nonnette L. Villanueva in certifying that she did not use any government vehicle, when she actually did and consequently collecting her Transportation Allowance in full, constitutes the offense of Dishonesty.

CONTRARY TO CIVIL SERVICE LAW AND RULES”

In her Answer^[18] dated November 23, 2009, petitioner argues that she cannot be found guilty of Less Serious Dishonesty. She avers that the administrative offense being ascribed to her is not among the offenses listed in Section 22, Rule XIV of the Omnibus Rules Implementing Book V of E.O. 292. She submits that absent an offense denominated as less serious dishonesty under the civil service law, it follows that she cannot be hailed to answer the same, much less, can she be imposed any penalty. Petitioner admits that although there is a variance between the trip tickets vis-a-vis the certifications signed by her, such variance is not a concealment or distortion of truth as regards her official travels so as to place her within the contemplation of dishonesty.

After the conduct of formal investigation and the submission of the two opposing parties of their respective position papers, the CSC Regional Office No. 1 found petitioner guilty of Less Serious Dishonesty and imposed upon her the penalty of nine (9) months suspension.^[19] Petitioner's subsequent motion for reconsideration^[20] was denied in CSC Regional Office No. 1 Resolution No. D-2011-080.^[21]

Thus, petitioner appealed^[22] before the CSC which affirmed with modification the decision of the CSC Regional Office No. 1. The CSC found her guilty of Serious Dishonesty and imposed the penalty of dismissal from service with the accessory penalties of forfeiture of retirement benefits, perpetual disqualification from reemployment in the government service, cancellation of eligibility, and bar from taking future civil service examination. Herein Assailed Resolution^[23] was issued on November 11, 2013 denying petitioner's Motion for Reconsideration.^[24]

Hence, this petition where petitioner raises the following issues:

“A

WHETHER OR NOT THE CIVIL SERVICE COMMISSION MISAPPREHENDED THE FACTS OF THE CASE.

B

WHETHER OR NOT THE CIVIL SERVICE COMMISSION ERRED IN NOT CONSIDERING THE ISSUES RAISED BY PETITIONER.

C

WHETHER OR NOT THE CIVIL SERVICE COMMISSION'S

MODIFICATION OF THE DECISION NO. 2011-072 OF THE CSC REGIONAL OFFICE NO. 1 FROM 'LESS SERIOUS DISHONESTY' TO 'SERIOUS DISHONESTY['] IS CONTRARY TO LAW AND EVIDENCE.'^[25]

We see no reason to disturb the findings of the CSC that petitioner indeed issued the false RATA certifications and is, therefore, guilty of dishonesty.

Dishonesty is defined as the "(d)isposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."^[26]

With the issuance of Resolution No. 06-0538, otherwise known as the *Rules on the Administrative Offense of Dishonesty*, by the Civil Service Commission on April 4, 2006, the offense of Dishonesty is categorized into Serious Dishonesty, Less Serious Dishonesty, and Simple Dishonesty, depending on the attendant circumstances. Serious dishonesty is punishable by dismissal.^[27] Less serious dishonesty is punishable by suspension for six months and one day to one year for the first offense and dismissal for the second offense.^[28] Simple dishonesty is punishable by suspension of one month and one day to six months for the first offense, six months and one day to one year for the second offense, and dismissal for the third offense.^[29]

Resolution No. 06-0538 recognizes that dishonesty is a grave offense punishable by dismissal from service.^[30] It, however, also recognizes that "some acts of Dishonesty are not constitutive of an offense so grave as to warrant the imposition of the penalty of dismissal from the service."^[31]

Recognizing the attendant circumstances in the offense of dishonesty, the CSC issued parameters "in order to guide the disciplining authority in charging the proper offense" and to impose the proper penalty.^[32]

Serious Dishonesty, Less Serious Dishonesty and Simple Dishonesty respectively, comprises the following offenses:

"Section 3. Serious Dishonesty. – The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Serious Dishonesty:

- a. The dishonest act causes serious damage and grave prejudice to the government.
- b. The respondent gravely abused his authority in order to commit the dishonest act.
- c. Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption.

- d. The dishonest act exhibits moral depravity on the part of the respondent.
- e. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment..
- f. The dishonest act was committed several times or in various occasions
- g. The dishonest act involves a Civil Service examination, irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets.
- h. Other analogous circumstances. (*Emphasis supplied*)

Section 4. The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Less Serious Dishonesty:

- a. The dishonest act caused damage and prejudice to the government which is not so serious as to qualify under the immediately preceding classification.
- b. The respondent did not take advantage of his/her position in committing the dishonest act.
- c. Other analogous circumstances. [33]

Section 5. The presence of any of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Simple Dishonesty:

- a. The dishonest act did not cause damage or prejudice to the government.
- b. The dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent.
- c. In falsification of any official document, where the information falsified is not related to his/her employment.
- d. That the dishonest act did not result in any gain or benefit to the offender.
- e. Other analogous circumstances."

In this case, the offense committed was serious dishonesty, not less serious dishonesty.

Petitioner argues that the Formal Charge of Less Serious Dishonesty remain