

## TWELFTH DIVISION

[ CA-G.R. SP. No. 125271, January 28, 2014 ]

**RUSTAN D. AGUSTIN, PETITIONER, V. CIVIL SERVICE  
COMMISSION, RESPONDENT.**

### D E C I S I O N

**ELBINIAS, J.:**

For disposition is a Petition for Review<sup>[1]</sup> filed under Rule 43 of the Rules of Court. The Petition assails the Decision<sup>[2]</sup> dated September 13, 2011 of public respondent Civil Service Commission ("public respondent CSC" for brevity) in CSC Decision No. 11-0512 (CSC Resolution No. 08-2167). The Petition also questions public respondent CSC's Resolution<sup>[3]</sup> dated May 29, 2012, which denied petitioner's eventual Motion for Reconsideration<sup>[4]</sup>.

Among the salient facts are those as stated in public respondent CSC's Resolution<sup>[5]</sup> of May 29, 2012, which are as follows:

**"xxx Agustin (*petitioner here*) requested authentication of his Certificate of Eligibility (COE) for the April 9, 2000 Police Officer Examination (POE) with the Integrated Records Management Office (IRMO), [of] this Commission (*public respondent here*), on July 30, 2007. However, upon verification of the IRMO, there were marked differences in the facial features of the picture and signatures found in his Identification Cards presented and the Picture-Seat Plan (PSP) of the April 9, 2000 POE held at the Carlos Albert High School, Quezon City. As a standard operating procedure, Agustin (*petitioner*) was indorsed on even date to the Legal Concerns Unit (LCU) of the Examination, Recruitment, and Placement Office (ERPO), [of] this Commission (*public respondent*), for further investigation.**

**On August 2, 2007, the ERPO issued a Show Cause Order requiring Agustin (*petitioner*) to submit a sworn statement on why he should not be administratively charged for having employed fraud in acquiring the eligibility.**

**In his Affidavit dated October 3, 2007, Agustin (*petitioner*) denied any knowledge or participation in the alleged irregularity in connection with the Civil Service examination he allegedly took. Further, Agustin (*petitioner*) averred that the person appearing in the Picture-Seat Plan (PSP) is a total stranger to him.**

**After the conduct of the preliminary investigation, Agustin (*petitioner*) was formally charged in Civil Service Commission Resolution No. 08-2167 dated November 25, 2008 with Serious**

**Dishonesty** for his alleged involvement in an examination irregularity.”

[6] (*Emphasis Supplied*)

On September 13, 2011, public respondent CSC rendered a Decision<sup>[7]</sup> finding petitioner Rustan D. Agustin (“petitioner” for brevity) liable for Serious Dishonesty. The dispositive portion of the Decision stated as follows:

“**WHEREFORE**, Rustan D. Agustin is hereby found **GUILTY** of Serious Dishonesty. Accordingly, the penalty of dismissal from the service is imposed upon him with all the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking any Civil Service examinations.”

[8] (*Emphasis was made in the original*)

After petitioner's Motion for Reconsideration<sup>[9]</sup> was denied by public respondent CSC in its assailed Resolution<sup>[10]</sup> of May 29, 2012, petitioner filed the Petition at bench, praying “to nullify and or set aside the questioned decision of the Hon. CSC.”<sup>[11]</sup>

In his Petition, petitioner raised the following grounds:

i. Whether or not the Decision of the Hon. CSC is supported by the evidence presented and admitted.

ii. Whether or not the Hon. CSC violated the sacrosanct right of the petitioner to due process of law, when the former anchored its decision not on the sole ultimate charge of the petitioner purportedly was guilty of fraud in securing his eligibility but on the alleged act of the petitioner of having attempted to benefit from the bogus examination;

iii. Whether or not the Hon. CSC could validly and fairly write a decision on a case, the trial of which was totally delegated to a hearing officer and the trial was, to accentuate, without the benefit of a stenographer and whether or not the decision is valid even if there was no showing that the Commissioners of the Hon CSC deliberated on it as a collegiate body.”<sup>[12]</sup>

To be begin with, contrary to petitioner's allegations in his *assigned grounds i, ii and iii*, petitioner was afforded due process of law.

Petitioner had argued as follows:

“xxx **despite that there was only one hearing officer that heard the case, yet, it was the Hon. Commission en banc that rendered the decision of the case. It must be accentuated that the conduct and performances in the hearing in this case was merely recorded through and by a tape recorder of the hearing officer. There was no Stenographer and or its equivalent. We respectfully take issue on this because it rams head on the CONSTITUTIONAL RIGHT of the petitioner to due process of law, in that, it was the hearing officer who administered and conducted the formal hearing, including but not limited to the taking of the direct testimonies and cross examinations of the witnesses of the parties; he was the one who saw and was able to observe the deportment and demeanor of the witnesses while they were delivering their**

**testimonies both in the direct and cross examinations. Thus, perforce, the vital observations he obtained regarding the deportment and demeanor of the witnesses cannot possibly be effectively passed on to the Hon. Commission. xxx**

xxx xxx xxx

**xxx THAT our assertion against violation of the constitutional right to due process of law of the petitioner has in fact manifested itself in the decision sought to be nullified, in that, the particular ruling of the Hon. CSC that accordingly, the petitioner merely presented evidence regarding his achievements as police officer, this, is not at all supported by the record of the case. There were numerous documents presented by the petitioner DURING HIS DIRECT TESTIMONY to prove 'the truthful sequence of events' of the controversy, which apparently, was merely brushed aside by the Hon. CSC. x x x**

xxx xxx xxx

**xxx the prosecution did not adduce any evidence to prove that there was connivance by and between the petitioner and the impersonator. xxx**

xxx xxx xxx

**xxx another specific ruling of the Hon. CSC which is relative to the Exhibit 'E' of the prosecution likewise appears to be an offshoot of the fact that the Hon. CSC did not personally hear the case and are without the corresponding stenographic notes. Thus, accordingly, it proves that, the petitioner desired to benefit from the bogus Civil Service eligibility by requesting for authentication for purposes of 'promotion'. There ought to be no inference for such matter, as that made, all because the prosecution did not formally offer Exhibit E for the purpose of proving that the reason for petitioner's request for authentication is promotion purposes, no there was no such offer xxx. Verily it is not only highly unfair but violative of the constitutional right to due process of law of the petitioner, if an exhibit like the Exhibit E will be considered to prove that petitioner desired to benefit from the bogus examination result when it was not offered for that purpose xxx"**

**[13]** *(Emphasis supplied)*

Defeating petitioner's arguments however, is that petitioner can not claim to have been denied due process by public respondent CSC. This is because the essence of due process in administrative proceedings is the opportunity to explain one's side; and this had been accorded petitioner.

Records revealed that petitioner had actively participated in the proceedings before public respondent CSC. This, petitioner did by his filing of an Answer dated January 17, 2009, where he denied any involvement in any irregularity<sup>[14]</sup> of the examination, and by his filing of his Memorandum<sup>[15]</sup> on July 13, 2011.

All of these matters were as also found by public respondent CSC, to wit: