

[ADMINISTRATIVE ORDER NO. 54, January 08, 2003]

IMPOSING UPON VELMA DALUPING, THEN BUREAU DIRECTOR OF THE DEFUNCT OFFICE FOR NORTHERN CULTURAL COMMUNITIES, THE PENALTIES OF CANCELLATION OF CIVIL SERVICE ELIGIBILITY, FORFEITURE OF LEAVE CREDITS AND RETIREMENT BENEFITS, IF ANY, AS WELL AS PERPETUAL DISQUALIFICATION FOR RE-EMPLOYMENT/REINSTATEMENT IN THE GOVERNMENT SERVICE, AS ACCESSORY PENALTIES TO DISMISSAL FROM THE SERVICE FOR A CAUSE

This refers to the administrative case filed by the Civil Service Commission (CSC) against Velma Daluping, then Bureau Director of the defunct Office for Northern Cultural Communities (ONCC), for violation of Civil Service Law and Rules for impersonating a certain Virginia A. Kidang during the Civil Service Career Professional Examination. For want of jurisdiction on the person of respondent, who is a presidential appointee, the case was referred by the CSC to the Presidential Anti-Graft Commission (PAGC).

The antecedent facts are as follows:

On January 4, 1994, the CSC, through its NCR Director, formally charged respondent, then an employee and later appointed as Director IV, Bureau of Cultural Affairs, of the ONCC, with dishonesty and grave misconduct for allegedly taking the CSC Professional Examination given on July 30, 1989 at Bo. Obrero Elementary School in Quezon City for Virginia Kidang, the supposed examinee. The CSC earlier found Kidang guilty of dishonesty and misconduct.

Instead of an answer, respondent filed on July 6, 1994 an omnibus motion to quash the formal charge and/or hold the investigation in abeyance. The said motion, on the other hand, was denied by the CSC in its Resolution No. 974583 dated December 11, 1997. The motion for reconsideration was similarly denied in Resolution No. 981966 dated July 20, 1998. Undaunted, respondent elevated the case to the Court of Appeals (CA) by way of petition for review, inter alia contending that the CSC has not acquired disciplinary jurisdiction to commence and hear the case.

In the meantime, the CSC proceeded with its investigation sans the presence of respondent, who failed to appear despite due notice. On October 19, 2000, the CSC issued an order finding respondent guilty of dishonesty and grave misconduct and meted upon her the penalty of dismissal from the service with all its accessory penalties. The CSC ruled as follows:

"A careful comparison shows that the person whose picture was attached to the Personal Data Sheet of Virginia A. Kidang and the person's picture appearing in the Picture Seat Plan used in the Civil Service Career

Professional Examination on July 30, 1989 at Bo. Obrero Elementary School are different individual. Kidang, whose picture was attached to the PDS has long and rectangular face and her cheekbone are quite prominent, whereas the face of the person whose picture was attached to the PSP is round and the cheekbones not distinguished. Moreover, the Commission has already ruled in CSC Resolution No. 842294 dated April 20, 1994 that it was not Kidang who took the examination. In Resolution No. 942294, the Commission found Kidang guilty of the charge of Dishonesty and Grave Misconduct for letting another person take the examination on her behalf. Hence, the main issue to be resolved in the instant case is to determine who took the examination.

A careful examination shows that the person whose picture was attached to the Picture Seat Plan (Exhibit A) is not Kidang but Velma Daluping. This is evidenced by the picture attached to the Personal Data Sheet (Exhibit D) of Velma C. Daluping. Undoubtedly, the person who took the examination for Kidang and the person who filled up the Personal Data Sheet are one and the same since the person in the picture in the PDS of Daluping is exactly the same person in the picture pasted on the PSP. Thus, from the evidence submitted, it is indubitable that it was Daluping who took the examination on behalf of Kidang."

On April 30, 2001, the CA set aside CSC Resolution Nos. 981966 and 974583 for want of jurisdiction. It ruled that the CSC could not initiate administrative proceedings against respondent who is a presidential appointee. On the basis thereof, the CSC forwarded the records of the case to the PAGC.

A notice of hearing was served upon the respondent but the same was returned by the PAGC Serving Officer because the former has transferred to another place somewhere in the Visayas upon learning that she has a pending charge before the PAGC. On the other hand, the CSC did not appear on the scheduled hearing of the case. As a result, the PAGC resolved the case based on the records submitted by the CSC.

Quoted hereunder are the findings of the PAGC, as recited in its resolution dated May 24, 2002, to wit:

"Thus the issue is: Whether or not the evidence on record constitutes substantial evidence to hold the respondent liable under Section 4 (c) of Republic Act No. 6713 otherwise known as Code of Conduct and Ethical Standards for Public Officials and Employees?

Section 4 (c) of Republic Act No. 6713 states:

'(c) Justness and sincerity. — Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity x x x They shall at all times respect the rights of others, shall refrain from doing acts contrary to law, good morals, good customs public policy, public order, public safety and public interest x x x.' (emphasis supplied)

As defined by Section 5, Rule 133 of the Rules of Court substantial evidence is 'that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion'.