

SPECIAL FOURTEENTH DIVISION

[SP No. 101960, May 27, 2010]

**JULIE B. MONTES, PETITIONER, VS. CIVIL SERVICE
COMMISSION, RESPONDENT.**

DECISION

Court of Appeals

This is a Petition for Review under Rule 43 of the 1997 Rules of Civil Procedure assailing Resolution No. 07-1910 (Rollo, pp. 51-67) dated October 2, 2007 of the Civil Service Commission (CSC-Propert), Diliman, Quezon City which affirmed with modification the Decision No. CAR-06-076DC dated June 30, 2006 of the Civil Service Commission-Cordillera Administrative Region (CSC-CAR), Baguio City, (Rollo, pp. 33-50). The dispositive portion of the CSC-Propert resolution states:

"WHEREFORE, the appeal of Julie B. Montes, Senior Agrarian Reform Officer, Department of Agrarian Reform, Cordillera Administrative Region (DAR-CAR) is hereby DISMISSED for lack of merit. The Commission finds Montes GUILTY of Simple Dishonesty and Conviction of Crime Involving Moral Turpitude and is hereby meted the penalty of DISMISSAL from the service including the accessory penalties of perpetual disqualification from reemployment in the government service, cancellation of eligibility, bar from taking civil service examination and forfeiture of retirement benefits." (Rollo, p. 67)

The facts are as follows:

The Regional Trial Court of Baguio City found Julie Montes guilty beyond reasonable doubt of three (3) counts of estafa. On May 23, 1994, the Court of Appeals modified the Decision of the RTC and found petitioner guilty of one (1) count of Estafa under Article 315 of the Revised Penal Code, sentencing her to an indeterminate imprisonment of six (6) months and one (1) day as minimum, to four (4) years , to two (2) months and (1) day as maximum. On August 22, 1994, the Supreme Court denied the petition for review on certiorari filed by Montes. On February 8, 1995, the said Resolution became final and executory and was recorded in the Book of Entries of Judgments of the Supreme Court.

Petitioner Julie B. Montes was the Senior Agrarian Reform Officer of the Department of Agrarian Reform Cordillera Administrative Region (DAR-CAR). Sometime in October 2002, petitioner applied for Career Service Executive Examination-Supplemental Written Examination (CSEE-SWE) in Baguio City aiming to be a government executive. In the said application form, question No. 15 was: "Have you ever been dismissed from any employment, forced to resign or otherwise disciplined as a result of an administrative case or convicted of any violation of law, ordinance or regulation before any civil court and/or military tribunal?" Montes answered "No" to the said question. (Rollo, p. 23) On November 27, 2002, she took the CSEE-SWE. She passed the same.

On May 21, 2003, the Civil Service Commission received an anonymous complaint, the pertinent portion of which reads:

"How does your good and prestigious office check on examinees applicants to the Career Service Executive Examination that they really meet the other requirement set by the Commission, such as: 1. have not been convicted by final judgment of any offense involving moral turpitude, disgraceful or immoral conduct, dishonesty and other, 2. With pending administrative and/or criminal cases etc.

Some government employee, from DAR-CAR in particulars who was convicted of a criminal case and yet was able to take the civil service examination and undergone panel interview.

To check whether such allegation is true, why not try to require Mrs. Julie B. Montes clearances such as NBI, Police Clearance, Court Clearance and other clearances that can prove otherwise that such report is true.***"
(Rollo p. 15)

On June 6, 2003, the said complaint was referred to the CSC-CAR and required the petitioner to file her comment. The CSC-CAR proceeded with its fact finding investigation and made request with the National Bureau of Investigation and Regional Trial Court Branch 6 in Baguio City.

On August 6, 2003, CSC-CAR received a letter response from NBI-CAR stating that a warrant of arrest has once been issued against Montes for Estafa. On August 8, 2003, RTC Branch 6, Baguio City forwarded the following: 1) letter of the Clerk of Court of the Court of Appeals; 2) the May 13, 1994 Decision of the Estafa cases against petitioner; and 3) February 6, 1995 Entry of Judgment.

Petitioner failed to file her comment to the anonymous complaint despite two opportunities given. On August 29, 2003, in Decision No. CAR-03-102DC (Rollo, pp. 17-18) and Decision No. CAR-03-103 (Rollo pp. 19-20), the CSC-CAR formally charged Montes with Falsification of Official Documents and Dishonesty; and Conviction of a Crime Involving Moral Turpitude respectively. Petitioner was directed to file her answer in both charges.

On September 15, 2003, petitioner through counsel filed a Manifestation wherein petitioner expressed her option to undergo a formal hearing. The manifestation was treated as an answer. The case was then set for formal hearing.

On February 13, 2004, Petitioner and her counsel appeared and manifested that she will not participate in said hearing but shall merely observe the proceedings.

On October 26, 2005, petitioner opted to file her position paper in lieu of presenting evidence.

On June 30, 2006, the CSC-CAR found Montes guilty of Simple Misconduct and Conviction of Crime Involving Moral Turpitude. The dispositive portion states:

"With all the foregoing, respondent Julie B. Montes is hereby exonerated of the offense Dishonesty and Falsification of Official

Documents. However, she is found guilty of Simple Misconduct and Conviction of Crime Involving Moral Turpitude.

Pursuant to Section 52 (a) of the Uniform Rules in Administrative Cases in the Civil Service, the imposable penalty for Conviction of Crime Involving Moral Turpitude is dismissal from the service, while Simple Misconduct is penalized with suspension for three (3) months and 1 day to six (6) months for the first offense.

Section 55, Rule IV of the same rule also provides:

*Section 55. **Penalty for the Most Serious Offense.** If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.*

Suspension being the penalty for Simple Misconduct, is considered merely as aggravating circumstance. There being no mitigating circumstances proven, the imposable penalty for Conviction of Crime Involving Moral Turpitude, being the graver offense is dismissal from the service.

Thus, respondent is hereby meted the penalty of dismissal from the service, including all its accessory penalties which include cancellation of civil service eligibility and disqualification to enter public service. For humane consideration however, in view of the fact that respondent is a single parent of two children, the CSC-CAR hereby resolves not to forfeit respondent's retirement benefits.

SO ORDERED. June 30, 2006. Baguio City." (Rollo p. 50)

Petitioner appealed. The CSC-Proper issued the appealed Resolution dated October 2, 2007.

Hence, this petition with the one assignment of error.

THE CIVIL SERVICE COMMISSION PROPER ERRED IN NOT DISMISSING THE ANONYMOUS COMPLAINT.

Petitioner contends that the anonymous complaint should be dismissed. According to Montes, "As a general rule, anonymous complaints are not given due course in this jurisdiction. Only in cases where an anonymous complaint is patently meritorious or is otherwise supported by evidence can the commission be justified in taking cognizance thereof. An succinctly stated in the Uniform Rules on Administrative Cases in the Civil Service (CSC Memorandum Circular No. 19, s. 1999); No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary evidence, in which case the person complained of may be required to comment". (Rollo, p. 7) She further alleged that in prosecuting and convicting her on the two charges would subject her to double jeopardy. (Rollo, p. 10)

The petition is without merit.