

TWENTY-SECOND DIVISION

[CA-G.R. SP NO. 04959-MIN, February 14, 2014]

ERLINDA P. NASOL, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENTS.

D E C I S I O N

LOPEZ, J.:

Erlinda P. Nasol (petitioner), a Secondary School Teacher from Tagum City National High School, Division of Tagum City, Department of Education (DepEd), Davao del Norte is before the Court via a petition for review^[1] under Rule 43 of the Rules of Court assailing the May 25, 2012 Decision^[2] of the Civil Service Commission (CSC) which affirmed with modification the May 2, 2011 Decision^[3] of the CSC Regional Office (CSCRO) No. XI finding petitioner guilty of serious dishonesty for taking the Professional Board Examination for Teachers (PBET) for and in behalf of Lea R. Elisan-Floro and imposing upon her the penalty of dismissal from service with all its accessory penalties of perpetual disqualification from entering the government service and from taking civil service examinations, cancellation of civil service eligibilities and forfeiture of retirement benefits.

The Facts:

On August 26, 2010, the CSCRO No. XI, Davao City formally charged⁴ petitioner for serious dishonesty, grave misconduct and conduct prejudicial to the best interest of the service, committed as follows:

That you took the Professional Board Examination for Teachers (PBET) given on October 26, 1986 in Davao City for and in behalf of Ms. Lea R. Elisan (now Floro); that upon verification, your picture appeared and is pasted on the picture seat plan (PSP) of the aforesaid examination above the name and slot of Ms. Lea R. Elisan; that comparison of the picture pasted in your personal data sheet (PDS) of February 19, 1990, September 11, 1995 and January 15, 2008 disclosed similarities in the facial features of the person in the said pictures; that Ms. Lea R. Elisan admitted in her sworn answer dated January 15, 2010 to the show cause order of December 7, 2009 and during the preliminary investigation of March 18, 2010 that you took the subject examination for and in in her behalf; that during the preliminary investigation of August 24, 2010, you admitted that you were the one who took the subject examination and that you personally pasted your picture in the PSP for the October 26, 1986 PBET held in Davao City for and in behalf of Ms. Lea R. Elisan. Said act, if proven true, constitutes serious dishonesty, grave misconduct and conduct prejudicial to the best interest of the service as it undermines

the sanctity of the said examination which is a ground for disciplinary action under existing civil service laws and rules.

The charge stemmed from an investigation of a case for impersonation against Lea R. Elisan-Floro regarding the Professional Board Examination for Teachers (PBET) that she took on October 26, 1986 in Davao City. During the preliminary investigation of the case,

Elisan-Floro identified Nasol (herein petitioner) as the person who took the PBET exam in her behalf. A comparison between the photo of Nasol in her 1990 Personal Data Sheet (PDS) secured by the CSCRO No. XI and the photo appearing in the October 26, 1986 PBET Picture Seat Plan (PSP) for Elisan-Floro reveals striking similarities in the facial features of the persons in both photos. It appears that petitioner took and passed the PBET Examination in question for and in the name of Elisan-Floro.

In her Answer, Nasol admitted that indeed, it was she who took the October 26, 1986 PBET for her friend, Elisan-Floro. However, she explained that such act was committed due to her desire to help Elisan-Floro obtain a permanent position and not to prejudice the government. Nasol likewise submits that the offense committed may be classified as simple dishonesty only because of the following reasons: (1) she had confessed her wrongdoing to then CSC Regional Cawad even before the PBET Result was released; (2) the interest of the government was not prejudiced considering that Elisan-Floro did not make use of the PBET Eligibility in issue; and (3) she has been a teacher of good performance for the past twenty three (23) years.

After due proceedings, the CSCRO No. XI, Davao City rendered a Decision^[5] dated May 2, 2011 finding petitioner guilty of serious dishonesty, grave misconduct and conduct prejudicial to the best interest of the service and was meted the penalty of dismissal from the service. Regional Director Annabelle Rosell of CSCRO No. XI, Davao City held that the act of taking the PBET examination for and in behalf of another is considered as serious dishonesty as provided in Section 5(g) Civil Service Resolution No. 060538. She added that the non-usage of the PBET eligibility is not an excuse as this rational is flimsy and trivial. The fact that petitioner is a public school teacher who is a molder of the youth is circumscribed with the highest standard of integrity and trustworthiness. Thus, by engaging in such act of impersonation jeopardizes the public trust and integrity afforded to public school teachers.

On appeal to the CSC, petitioner contends that the offense committed is only simple dishonesty under Section 2(c) of the Rules on Administrative Offense and not serious dishonesty. Petitioner further reiterates that the dishonest act did not cause damage or prejudice to the government, nor did it result in any gain or benefit to the offender.^[6]

On August 23, 2010, the CSC issued the assailed Decision affirming with modification the Decision of the CSCRO No. XI, giving as reasons, to *wit*:

The Rules on the Administrative Offense of Dishonesty is very clear and explicit in stating that any dishonest act involving a Civil Service examination irregularity or fake Civil Service eligibility such as, but not

limited to, impersonation, cheating and use of crib sheets, is considered as Serious Dishonesty. It did not make further qualification. This is so because the Commission, in promulgating the said rule is cognizant of the inherent evil and prejudice resulting to such dishonest act.

In fine, a person who committed a dishonest act involving a Civil Service examination irregularity or fake Civil Service eligibility is guilty of the offense of Serious Dishonesty regardless of whether such act caused any damage or prejudice to the government or if the act resulted to any gain or benefit to the offender.

On the other hand, misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or disregard of established rules, which must be proved by substantial evidence.

Lastly, the administrative offense of Conduct Prejudicial to the Best Interest of the Service refers to such unwarranted act of the respondent, which resulted in an undue prejudice to the best interest of the service where the government was denied of a committed service.

Nasol's liability for the above offenses was sufficiently established by substantial evidence. She admits having committed the act of taking and passing the October 26, 1986 PBET for and in behalf of her friend Elisan-Floro.

The importance in observing integrity in the conduct of the PBET is undeniable. It was then the government's barometer in determining those who are qualified to be duly employed as public school teachers. Nasol, in taking and subsequently passing the October 26, 1986 PBET for and in behalf of her friend Elisan-Floro, willfully deceived the government in issuing a PBET Eligibility to the person of Elisan-Floro who was otherwise unworthy of the same.

The Commission notes Nasol's plea for reduction of the penalty imposed upon her considering the length of service. However, considering that the appropriate imposable penalty in the case at bar is dismissal from the service which is indivisible in nature, the presence of mitigating/aggravating circumstance(s) cannot be appropriately appreciated.^[7]