

## **SEVENTEENTH DIVISION**

**[ CA-G.R. SP NO. 127626, May 21, 2014 ]**

**GILBERT A. OJEDA, PETITIONER, VS. RAYMUNDO R. ESPINOSA  
AND FRANCISCO T. DUQUE, RESPONDENTS.**

### **D E C I S I O N**

**BATO, JR., J.:**

Assailed in this Petition for Review<sup>[1]</sup> under Rule 43 of the Rules of Court are the 02 November 2010 and 05 November 2012 Resolutions of the Civil Service Commission (CSC). The first assailed Resolution denied petitioner Gilbert A. Ojeda's request for the grant of immunity from administrative prosecution, while the second assailed Resolution denied his Motion for Reconsideration.

The antecedent facts are as follows:

Petitioner Ojeda was appointed as Acting Postmaster of the Philippine Postal Corporation, Mulanay, Quezon on 01 January 1998. On 04 January 2002, he was appointed as Postmaster I. In support of his appointment, he submitted a Career Professional Certificate of Eligibility showing that he passed the Career Service Professional Examination on 27 November 1994.

Sometime in the year 2004, private respondent Raymundo R. Espinosa requested the CSC to conduct an investigation on the allegation that another person took the Career Service Professional Examination in behalf of petitioner Ojeda. After the conduct of a fact-finding investigation, the CSC concluded that there is indeed a possible case of examination irregularity, particularly impersonation, involving petitioner Ojeda. The photo, date of birth and signature of the examinee named Gilbert A. Ojeda in the Picture Seat Plan (PSP) of the 27 November 1994 Professional Examination conducted in Sta. Cruz, Laguna, are dissimilar with the photo, date of birth and signature found in the Personal Data Sheet (PDS) of petitioner Ojeda.

On 05 November 2004, Azucena Perez-Esleta, Director IV, Examination, Recruitment and Placement Office (ERPO) of the CSC, issued a Show Cause Order<sup>[2]</sup> against petitioner Ojeda, giving him a chance to explain why he should not be held administratively liable for employing fraud in the acquisition of his career service eligibility and for declaring false statements in his PDS.

By way of an affidavit<sup>[3]</sup> dated 25 November 2004, petitioner Ojeda admitted that it was indeed another person, a certain Fernando Olicia, who took the Civil Service Professional Examination for him. He averred that sometime in October 1994, spouses Ruben and Preceva Villafranca, both employees of the Department of Agriculture, Malunay, Quezon, approached him and offered to help him secure a Certificate of Eligibility for a consideration of Fifty Thousand Pesos (Php50,000.00). Considering that the spouses Villafranca had already helped several persons in their

town obtain Certificates of Eligibility, he agreed to pay the sum of Php50,000.00. He then manifested that he wants to avail of the CSC's Whistleblower Protection Program.

On 23 May 2005, petitioner Ojeda again manifested to Dir. Perez-Esleta his intention to avail of the CSC's Whistleblower Protection Program. In response thereto, Dir. Perez-Esleta wrote to petitioner Ojeda on 11 July 2005, informing him that his application for the Whistleblower Protection Program was still under consideration. Petitioner Ojeda was then requested to complete the attached "Undertaking of an Applicant for Whistleblower Immunity" to express that he was sufficiently informed and would voluntarily comply with the obligations stated therein. He was also advised to redraft his affidavit, this time with the assistance of a lawyer of his choice. However, petitioner failed to submit within a reasonable period of time the completed "Undertaking of an Applicant for Whistleblower Immunity."

On 23 November 2009 or more than four years from the time that the CSC directed him to submit the abovementioned undertaking, petitioner was formally charged with Serious Dishonesty, Grave Misconduct, Falsification of Official Documents and Conduct Prejudicial to the Best Interest of the Service. Petitioner filed his Answer<sup>[4]</sup> on 22 December 2009, and attached thereto the duly accomplished "Undertaking of an Applicant for Whistleblower Immunity."<sup>[5]</sup> He attributed his failure to submit said undertaking in the year 2005 to "sheer inadvertence."

On 02 November 2010, the CSC issued the first assailed Resolution, *i.e.*, CSC Resolution No. 1000290,6 denying petitioner's request for immunity on the ground that *"he failed to comply with the requirements in the Grant of Immunity from Administrative Prosecution."* The dispositive portion of said Resolution reads:

"WHEREFORE, the request of Gilberto (sic) A. Ojeda for the grant of immunity from administrative prosecution, pursuant to the CSC Resolution No. 04-0275, the Policy Guidelines on Whistle-Blowers Immunity from Prosecution in Examination Irregularity Cases, is hereby DENIED. Accordingly, the Legal Concerns Unit-Examination, Recruitment and Placement Office, Civil Service Commission-Central Office, is hereby directed to proceed with the formal investigation of the administrative case against Ojeda without further delay.

A copy of this Resolution shall be furnished to Gilberto (sic) A. Ojeda at his known address and the Integrated Records Management Office (IRMO), this Commission.

Quezon City."

Petitioner's motion for reconsideration<sup>[7]</sup> was likewise not favorably acted upon by the CSC via Resolution No. 1201948<sup>[8]</sup> dated 05 November 2012. The CSC concluded that petitioner's failure to immediately submit the accomplished Undertaking of an Applicant for Whistleblower Immunity shows his disinterest to avail of the program.

Hence, petitioner filed the instant petition for review raising the lone issue for Our resolution:

"THE CIVIL SERVICE COMMISSION GRAVELY ERRED IN DENYING PETITIONER GILBERT OJEDA'S APPLICATION FOR THE GRANT OF