

SECOND DIVISION

[G.R. No. 225151, September 30, 2020]

CIVIL SERVICE COMMISSION, PETITIONER, VS. PETER G. CUTAO, RESPONDENT.

DECISION

INTING, J.:

This resolves the Petition for Review on *Certiorari*^[1] under Rule 45 filed by the Civil Service Commission (CSC) against Peter G. Cutao (Cutao) assailing the Decision^[2] dated January 27, 2016 and the Resolution^[3] dated May 16, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 05397-MIN. In the assailed issuances, the CA reversed the CSC Resolution No. 1300213^[4] dated January 28, 2013 that upheld the CSC Regional Office (CSCRO) No. XIII, Butuan City, recall of Cutao's appointment as: (a) Police Officer (PO) III; (b) Senior PO (SPO) I; and (c) SPO II for failure to meet the educational attainment requirement for the positions.

The Antecedents

Cutao started in the civil service with the Philippine National Police (PNP) as PO1. He was later on promoted to PO3,^[5] SPO1,^[6] and SPO2.^[7] All of the promotions were approved by the CSC.^[8]

As part of the documentary requirements for applying for a promotion to SPO2, Cutao accomplished and submitted his Personal Data Sheet (PDS),^[9] indicating that he obtained a bachelor's degree in criminology from the Agusan Institute of Technology (AIT) in Butuan City in 1997. He also submitted a copy of his transcript of records from AIT which bore the following notation:

GRADUATED: From the Four Year Course in Criminology leading to the degree of BACHELOR OF SCIENCE IN CRIMINOLOGY (B.S. Crim) major in Police Administration as of October 20, 1996. **With Special Order (B)(R-X) No. 702-0094 s, 1997 dated December 14, 1997.**^[10] (Emphasis supplied.)

Also attached to his application was a Commission on Higher Education (CHED) Certification, Authorization and Verification (CAV)^[11] (R-X111) No. A-417, Series

2007, dated May 28, 2007 which states:

To Whom It May Concern:

THIS IS TO CERTIFY that the signature (s) appearing on the original copy (ies) of the attached Transcript of Records, Diploma and Xerox copy of Special Order of

CUTAO, PETER G.

is/are that of The President, The Registrar, AGUSAN INSTITUTE OF TECHNOLOGY, Butuan City, Philippines.

This is to certify further that the Bachelor of Science in Criminology (B.S. Crim.) offered in the said school is duly authorized by the Government of the Republic of the Philippines.

For the Commission:

JOANNAB. CUENCA, Ph.D., CESO III
Director IV

By:

(signed)

ANASTACIO P. MARTINEZ, Ph.D.
Chief Education Program Specialist^[12]

There were other signatures on the CAV which appeared to be those of CHED officials who had verified the course, as well as the Special Order (B)(R-X) No. 702-0094 s. 1997^[13] dated December 14, 1997, as indicated on Cutao's transcript.

In the process of reviewing the documents submitted by Cutao, the CSC Field Office (CSCFO), Agusan Del Norte, through Meshach D. Dinlayan, Director II, wrote a Letter^[14] dated February 16, 2011 to CHED Caraga Administrative Region, through Dr. Isabela L. Mahler, Director IV, requesting the latter to verify the authenticity of Cutao's transcript and CAV.

On June 30, 2011, Dr. Julius Sol O. Jamero, Chief Administrative Officer of CHED Caraga Administrative Region, responded to the query by filling out the *pro forma* verification slip^[15] at the lower portion of the Letter dated February 16, 2011 and returning it to the CSCFO. In the slip, he ticked the appropriate box to indicate that the documents sought to be verified were "not authentic," giving the following reasons: *first*, the signatures of the CHED personnel appearing on the CAV submitted were not genuine.^[16] *Second*, Special Order (B)(R-X) No. 702-0094 s. 1997^[17] dated December 14, 1997 does not reflect Cutao's name. In this regard,

the CHED attached a file copy^[18] of the same Special Order referred to in Cutao's transcript, showing that the document was issued for purposes of approving the eligibility for graduation of one Bernardo F. Dela Cruz, and confirming that he had completed the requirements to obtain a bachelor's degree from AIT. In other words, the document was issued in the name of another person, not Cutao.

Based on the results of the CSCFO's verification, the CSCRO concluded that the approval of Cutao's promotional appointments was "not in order" for lack of the requisite educational qualification at the time of appointment.^[19] Thus, through Adams D. Torres, Director IV, the CSCRO issued Decision No. LSD-NDC-12-006^[20] dated January 19, 2012, recalling the approval of Cutao's promotional appointments, viz.:

WHEREFORE, foregoing premises considered, the approval of the promotional appointments of Mr. Peter G. Cutao, as Police Officer III (PO3), Senior Police Officer I (SPO1), and Senior Police Officer II (SPO2) are hereby RECALLED. This order is without prejudice to the filing of an administrative complaint against Mr. Cutao for the offenses of Dishonesty and/or Falsification of Public Document.^[21]

To implement the ruling, the CSCRO wrote^[22] Police Chief Superintendent Reynaldo Serrano Rafal, Director, PNP Regional Office No. XIII, Butuan, informing his office of the above-mentioned findings and urging him to issue an order, upon finality of the decision, reverting Cutao to his original position prior to all promotions and adjust his compensation accordingly.

Aggrieved, Cutao appealed the CSCRO Decision No. LSD-NDC-12-006 to the Commission Proper (CSC Proper).^[23]

Ruling of the CSC Proper

In Decision No. 120653^[24] dated October 2, 2012, the CSC Proper dismissed Cutao's appeal and upheld the invalidation of the subject promotional appointments. It explained that CSC Resolution No. 021288^[25] dated October 8, 2002 lists a bachelor's degree as among the qualification requirements for the positions PO3, SPO1, and SPO2. Inasmuch as CHED already declared that the transcript and CAV submitted by Cutao were not authentic, it follows that he does not possess the requisite educational attainment for the higher positions.^[26]

The CSC Proper gave more weight to CHED's declaration over Cutao's submissions, consisting of a certification issued by the AIT Registrar dated February 23, 2012, stating that he "had graduated from the Four-Year Course in Criminology leading to the degree of Bachelor of Science in Criminology x x x as of October 20, 1996."^[27]

In his subsequent Motion for Reconsideration,^[28] he insisted that he graduated and obtained his bachelor's degree in Criminology from AIT. The discrepancies in his

school records are "beyond his control" and "not his fault."^[29] The CSC Proper summarized the documents submitted by Cutao to support his claims as follows:

1. Letter dated October 22, 2012 of Maria Delia M. Labado, AIT Registrar, addressed to Police Chief Superintendent Carmelo E. Valmoria praying for understanding and requesting that AIT be given time to prove that Cutao graduated [with] the degree of Bachelor of Science in Criminology on October 1996;
2. Letter dated October 23, 2012 of Labado addressed to the Regional Director, CHED Region XIII, stating that Cutao was enrolled in 1994 up to 1997 and that they are re-applying to re-check the form of Cutao in the issuance of Special Order;
3. Letter dated June 21, 2012 issued by Labado, attested by Elison O. Tacasan and Shirely T. Lim, AIT Dean and President, respectively, addressed to the Regional Director, CHED Region XIII, certifying under oath that Cutao has fully complied with the requirements for graduation for the degree of Bachelor of Science in Criminology as of October 1996; and
4. Enrollment Forms of Cutao for the summer of 1994, first and second semester of 1994-1995, and first semester of 1996.^[30]

However, the CSC Proper denied his motion for failure to proffer new evidence or cite errors of law that would justify a revision, modification, or reversal of its assailed ruling. It found the above-enumerated documents as inconclusive as these do not controvert the CHED declaration that his transcript and CAV are not authentic.^[31]

Undaunted, Cutao elevated the case to the CA arguing that the CSC violated his constitutional right to due process when the CSCRO promulgated Decision No. LSD-NDC-12-006 on January 19, 2012.^[32]

Ruling of the CA

In its assailed Decision,^[33] the CA overturned the CSC's rulings. It held as follows: *first*, the CHED-accomplished verification slip relied upon by the CSC in recalling Cutao's promotional appointments did not amount to substantial evidence—the burden of proof required in administrative cases.^[34] *Second*, Cutao has served in the government as a member of the PNP for seven years. Thus, "he has already acquired a legal right to the office."^[35] The CSC, in initially approving his promotions, led him to believe that his appointments were regular in all material respects.^[36] *Third*, Cutao was in good faith. That his documents turned out to be inauthentic was not his fault, but that of AIT. He relied on the TOR and CAV issued by the AIT and was led to believe that he was duly qualified to apply for those positions and, thereafter, hold and assume the responsibilities of office. As held in

Obiasca v. Basallote,^[37] an appointment to civil service must be upheld, despite procedural lapses, if these were beyond the civil servant's control and not of his own making.^[38] *Fourth*, based on the foregoing, Cutao was duly qualified for the position and eventually "became a permanent[-]status civil servant."^[39] Thus, he must be accorded due process—consisting of notice and hearing—before his appointments could be recalled,^[40] and him removed from office.^[41]

The CSC moved to reconsider arguing that Cutao's appointments were merely recalled. He was not dismissed from service. The present controversy is a "non-disciplinary" case. Under the circumstances, the CSC rules do not require notice and hearing, but allow the aggrieved party to appeal the case or move for reconsideration.

In denying the CSC's motion for lack of merit, the CA explained that while the CSC has power to recall appointments, it may only exercise it based on specific grounds.^[42] Thus, the CSC bore the burden of proving that Cutao violated existing civil service laws or regulations and that fraud attended his appointments.^[43]

Moreover, although it is a non-disciplinary case under the CSC rules, the CSC's recall without notice and hearing and after Cutao had already been occupying the positions for a total of six years "violated all norms of fair play and equity."^[44]

Hence, the CSC filed the present petition.

Issues

The sole issue for the Court's resolution is whether the CSC may recall a previously approved appointment to civil service without prior notice and hearing.

The Court's Ruling

The petition is meritorious.

It is well-settled that the CSC's authority "to take appropriate action on all appointments and other personnel actions"^[45] includes the power "to recall an appointment initially approved, [if later on found to be] in disregard of applicable provisions of the Civil Service law and regulations."^[46]

The recall or invalidation of an appointment does not require a full-blown, trial-type proceeding. "[I]n approving or disapproving an appointment, [the CSC] only examines the conformity of the appointment with applicable provisions of law and whether the appointee possesses all the minimum qualifications and none of the disqualifications." Thus, in contrast to administrative disciplinary actions, a recall does not require notice and hearing.^[47]

The essence of due process is the right to be heard. Thus, a party can be accorded due process through means other than a notice or hearing. The Revised Rules on Administrative Cases in the Civil Service (Civil Service Rules)^[48] aptly provides for a