

## SECOND DIVISION

[ G.R. No. 191787, June 22, 2015 ]

**MACARIO CATIPON, JR., PETITIONER, VS. JEROME JAPSON,  
RESPONDENT.**

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

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> seeks to set aside the December 11, 2009 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 94426 affirming the July 6, 2005 Decision<sup>[3]</sup> of the Civil Service Commission-Cordillera Administrative Region (CSC-CAR) in CAR-05-034DC, as well as its March 17, 2010 Resolution<sup>[4]</sup> denying petitioner's Motion for Reconsideration.<sup>[5]</sup>

#### ***Factual Antecedents***

The facts are as follows:

Petitioner Macario U. Catipon, Jr. is the holder of a Bachelor's Degree in Commerce from the Baguio Colleges Foundation. When applying for graduation, he was allowed to join the graduation ceremonies despite a deficiency of 1.5 units in Military Science, pursuant to a school policy allowing students with deficiencies of not more than 12 units to be included in the list of graduates. However, a restriction came after, which is, that the deficiency must be cured before the student can be considered a graduate.

In 1985, petitioner found employment with the Social Security System (SSS) in Bangued, Abra.

Sometime in September 1993, the personnel head of the SSS in Bangued, Abra informed petitioner that the Civil Service Commission was conducting a Career Service Professional Examination (CSPE) in October of the same year. Petitioner filed an application to take the examination, believing that the CSC still allowed CSPE applicants to substitute the length of their government service for any academic deficiency which they may have. However, the above-mentioned policy of the CSC had been discontinued since January 1993 pursuant to Civil Service Commission Memorandum Circular No. 42, Series of 1991 and Office Memo. No. 63, Series of 1992.

Nevertheless, petitioner took the CSPE tests on October 17, 1993 and obtained a rating of 80.52%. Eventually, petitioner was promoted to Senior Analyst and Officer-in-Charge Branch Head of the SSS at Bangued, Abra. In October 1995, he finally eliminated his deficiency of

1.5 units in Military Science.

On March 10, 2003, respondent Jerome Japson, a former Senior Member Services Representative of SSS Bangued, filed a letter-complaint with the Civil Service Commission-CAR Regional Director, alleging that petitioner made deliberate false entries in his CSPE application, specifically, that he obtained his college degree in 1993 when actually he graduated in 1995 only, after removing his deficiency of 1.5 units in Military Education. Also, that petitioner was not qualified to take the CSPE examination in 1993 since he was not yet then a graduate of a four-year college course, contrary to the entry in his application form.

After preliminary investigation, petitioner was charged with Dishonesty, Falsification of Official documents, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service by the CSC-CAR.<sup>[6]</sup>

Respondent's Letter-Complaint<sup>[7]</sup> against petitioner was docketed as CSC Disciplinary Administrative Case No. BB-03-006.

In his Answer,<sup>[8]</sup> petitioner essentially pleaded good faith, lack of malice, and honest mistake. He maintained that at the time of his application to take the CSPE, he was of the honest belief that the policy of the CSC - that any deficiency in the applicant's educational requirement may be substituted by his length of service - was still subsisting.

On July 6, 2005, the CSC-CAR, through Director IV Atty. Lorenzo S. Danipog, rendered a Decision<sup>[9]</sup> containing the following pronouncements:

Clearly, respondent Catipon is not without any fault under the foregoing circumstances. The only issue now left is with respect to the particular offense for which Catipon may be held responsible. Respondent Catipon is charged (with) four offenses: Dishonesty, Falsification of Official Documents, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.

The key document allegedly falsified in this case is the Application Form x x x of respondent Catipon for the purpose of taking the CS Professional Examination scheduled on October 17, 1993. Close and careful perusal of the said application form reveals that most of the entries filled up by respondent are typewritten. The only entries handwritten by respondent are those corresponding to "*Year Graduated*" and "*School Where Graduated*" which were answered by Macario with "1984" and "BCF" respectively. Another handwritten entry is with respect to "*Degree Finished*", the handwritten "BSC entry, however, was just superimposed on the typewritten "*Commerce*".

The fact that majority of the entries or data in the application form is typewritten suggests that the said application form was consciously drafted and meticulously prepared before its actual submission to the CSC for processing. They are relevant and material entries or data sought from respondent. It is worth emphasizing however that the pre-drafted application form, considering the typewritten entries, shows respondent's

confusion on how to make entries thereat. Respondent answered both the IF YES column and IF NO column corresponding to the question "*Are you a college graduate*" in Item 8. x x x

xxxx

The manner that Item 8 was filled up by respondent Catipon shows lack of deliberate intent to defraud the government. He manifested in his application his uncertainty on how to take the fact that he only lacks 1.5 units Military Science to be conferred a graduate status, vis-a-vis the CSC policy on educational requirement. Though the entry "*undergrad*" was erased, the CSC employee who processed the application would have doubted the truthfulness and authenticity of respondent's entries in Item 8 of the Application Form, and thus the educational status of Macario. x x x

xxxx

Catipon had tried to show the real state of the matter regarding his educational attainment as can be deduced from the manner he answered Item No. 8 in the application form. This may be taken as good faith, which will serve to mitigate any liability incurred by respondent Catipon. The premeditated intent to deceive or willfully distort the facts in this case is not present. The acts of Catipon do not even show blatant disregard of an established rule or a clear intent to violate the law if at all, there was attempt to reveal the truth to the examination division processing the application.

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With [regard] to the eligibility earned by respondent Macario in view of his passing the October 17, 1993 Career Service Professional Examination, the same needs to be revoked being the fruit of a poisonous tree, so to speak. Paragraph 2 of Sec. 6, Rule n, Omnibus Rules Implementing Book V of Executive Order No. 292 states:

Provided that when an applica[nt] for examination is found to have xxx intentionally made any false statement of any material fact in his application, x x x the Commission shall invalidate such examination xxx.

With the foregoing, respondent Macario U. Catipon, Jr., Senior Analyst and OIC Branch Head, Social Security System, Bangued, Abra, is hereby exonerated of the charges Dishonesty, Falsification of Official Documents and Grave Misconduct. However, respondent is found guilty of Conduct Prejudicial to the Best Interest of the Service.

Under the Uniform Rules on Administrative Cases in the Civil Service, the imposable penalty on the first offense of Conduct Prejudicial to the Best Interest of the Service is suspension of six months and one day to one year.

Under Section 53 of the same Rules, good faith is enumerated as one mitigating circumstance. Thus, respondent Macario Catipon, Jr. is hereby meted a penalty of six months and one day suspension, without pay, which is the minimum period of the penalty attached to the offense committed. The Career Service Professional eligibility of respondent is also ordered revoked, without prejudice however to retaking of the said examination. Thus, Catipon, after serving suspension herein provided should not be allowed to go back to his current position without CS Professional eligibility. Consequently, in case respondent Catipon fails to retake or pass CSPE, after serving his suspension, he may be demoted to any available position that fits his subprofessional eligibility.<sup>[10]</sup>

Petitioner moved for reconsideration,<sup>[11]</sup> but the CSC-CAR sustained its judgment in a March 23, 2006 Decision,<sup>[12]</sup> which contained the following pronouncement:

Catipon also asserted that in view of his exoneration of Dishonesty, Falsification of Official Documents and Grave Misconduct, there is no longer any basis to hold respondent guilty of Conduct Prejudicial to the Best Interest of the Service. This contention is without legal basis. In the case of *Philippine Retirement Authority vs. Rupa* 363 SCRA 480, the Honorable Supreme Court held as follows:

*Under the Civil Service laws and rules, there is no description of what specific acts constitute the grave offense of Conduct Prejudicial to the Best Interest of the Service.*

As alluded to previously in Decision No. CAR-05-034DC, Catipon is not without fault under the circumstances. To completely exonerate respondent would be inequitable and iniquitous considering the totality of events surrounding this case. Though there was no deliberate intent to falsify or to make dishonest entry in the Application Form as deduced from the manner that the said form was accomplished, the fact that there was indeed such dishonest or false entry in the CSPE Application Form is undisputedly established. In view of such an established fact, the integrity of the Civil Service Examination, particularly the CSPE has been blemished which is sufficient to constitute Conduct Prejudicial to the Interest of the Service.<sup>[13]</sup>

### ***Ruling of the Court of Appeals***

In a Petition for Review docketed with the CA as CA-G.R. SP No. 94426, petitioner prayed for injunctive relief and the reversal of the above CSC-CAR decision. He argued that the CSC-CAR incorrectly found him guilty of conduct prejudicial to the best interest of the service when he has been declared innocent of the charges of dishonesty, falsification of official documents, and grave misconduct; that while the Supreme Court has held that making false entries in public documents may be considered as conduct prejudicial to the best interest of the service, such act must be accompanied by deliberate intent or a willful desire to defy or disregard established rules or norms in the service;<sup>[14]</sup> and that with the finding that he merely committed an innocent mistake in filling up the application form for the CSPE, he may not be found guilty of conduct prejudicial to the best interest of the service.

On December 11, 2009, the CA rendered the assailed Decision denying the petition, decreeing thus:

WHEREFORE, in view of the foregoing, the instant petition is DENIED for lack of merit. The Decision [sic] of the Civil Service Commission-Cordillera Administrative Region dated July 6, 2005 and March 23, 2006 is [sic] AFFIRMED.

SO ORDERED.<sup>[15]</sup>

The CA held that instead of filing a petition for review directly with it, petitioner should have interposed an appeal with the Civil Service Commission (CSC), pursuant to Sections 5(A)(1), 43 and 49 of the CSC Uniform Rules on Administrative Cases; <sup>[16]</sup> that by filing a petition directly with it, petitioner violated the doctrine of exhaustion of administrative remedies; that petitioner's case is not exceptional as would exempt it from the application of the doctrine; that per the ruling in *Bayaca v. Judge Ramos*,<sup>[17]</sup> the absence of deliberate intent or willful desire to defy or disregard established rules or norms in the service does not preclude a finding of guilt for conduct prejudicial to the best interest of the service; and that petitioner did not act with prudence and care, but instead was negligent, in the filling up of his CSPE application form and in failing to verify beforehand the requirements for the examination.

Petitioner moved for reconsideration, but the CA stood its ground. Hence, the instant recourse.

### **Issues**

Petitioner raises the following issues for resolution:

(A)

THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT FAILED TO REALIZE THAT GIVEN THE IMMEDIATE EFFECT OF THE SUSPENSION IMPOSED BY THE CIVIL SERVICE COMMISSION-CORDILLERA ADMINISTRATIVE REGION AGAINST THE PETITIONER, HE WAS JUSTIFIED IN SEEKING JUDICIAL RECOURSE BEFORE (THE COURT OF APPEALS);

(B)

THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT MISAPPLIED IN THE ABOVE-ENTITLED CASE THE RULE ON PRIOR EXHAUSTION OF ADMINISTRATIVE REMEDIES;

(C)

THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT FAILED TO CONSIDER THAT THE PETITIONER ACTED IN GOOD FAITH AND THIS NEGATES GUILT FOR CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.<sup>[18]</sup>