

EN BANC

[G.R. No. 191412, January 17, 2012]

LETICIA A. CADENA, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

DECISION

REYES, J.:

Before us is a Petition for Review filed by petitioner Leticia A. Cadena (Cadena) following the issuance by the Court of Appeals (CA) of its Decision^[1] dated June 30, 2009 and Resolution^[2] dated January 4, 2010 in the case docketed as CA-G.R. SP No. 103646, entitled "*Leticia A. Cadena v. Civil Service Commission*."

The Factual Antecedents

Cadena, then a State Auditing Examiner II, Commission on Audit, assigned at the National Power Corporation, was charged with grave misconduct by the Civil Service Commission-National Capital Region (CSC-NCR) following an incident that occurred during the Career Service Professional Examination held on June 29, 1997. Records indicate that while all examinees were instructed at the start of the examination to clear their desks of things other than their examination booklets, scratch papers and answer sheets, Cadena kept her Notice of Assignment. In the course of the examination, the examiner caught Cadena with the said notice of assignment where some questions from the examination were reproduced.

In her answer to the formal charge, Cadena averred that she failed to fully comprehend the instructions to examinees because she arrived late for the examinations. She did not know that she was prohibited from keeping her notice of assignment while the examinations were ongoing. She further alleged that what she copied from the examination booklet and wrote on the notice of assignment were terms she encountered for the first time, and that she only intended to look up in the dictionary the meaning of those words once she arrived home.

While Cadena manifested her desire to file a position paper during the investigations, no such pleading was filed by her counsel. A decision was then rendered by the CSC-NCR based on available records.

The Ruling of the CSC-NCR

The CSC-NCR found Cadena guilty of grave misconduct and dishonesty. The CSC-NCR rejected her defense that she was not aware of the instructions given to examinees considering that the test booklets already contained a prohibition from making copies of the examination questions. Further, she failed to satisfactorily explain her reason for writing her answer sheet number and the venue of her examination on her notice of assignment. The CSC-NCR ruled that her act "does not

only amount to Grave Misconduct but also connotes untrustworthiness and lack of integrity, a disposition to lie, cheat, deceive, betray which is tantamount to dishonesty."^[3] It further declared:

Further, **Item no. 1 of Civil Service Commission Memorandum Circular No. 8, s. 1990** states that:

"Any act which includes the fraudulent procurement and/or use of fake/spurious civil service eligibility, the giving of assistance to ensure the commission or procurement of the same, or any other act which amounts to violation of the integrity of the Civil Service examinations, possession of fake Civil Service eligibility and other similar acts shall be categorized as a grave offense of Dishonesty, Grave Misconduct or Conduct Prejudicial to the Best Interest of the Service, as the case may be, and shall be penalized in accordance with the approved schedule of penalties." ^[4]

The dispositive portion of CSC-NCR's Decision^[5] dated June 14, 2005 then reads:

WHEREFORE, in view of the foregoing, this Office finds Leticia A. Cadena guilty of Grave Misconduct and Dishonesty. Cadena is hereby meted out the penalty of DISMISSAL from the service with the accessory penalties of forfeiture of retirement benefits, disqualification from re-employment in the government service and bar from taking any civil service examination in the future.

SO ORDERED.^[6]

The petitioner's motion for reconsideration was denied by the CSC-NCR *via* a decision^[7] dated September 1, 2006, prompting the filing of an appeal with the CSC.

The Ruling of the CSC

On March 24, 2008, the CSC, through Commissioner Mary Ann Z. Fernandez-Mendoza, issued Resolution No. 080430^[8] dismissing the petitioner's appeal for having been filed out of time. It emphasized that the "perfection of an appeal in the manner and within the period laid down by law is not only mandatory but jurisdictional, and failure to perfect an appeal as legally required has the effect of rendering final and executory [the] judgment of the court below and deprives the appellate court [of] jurisdiction to entertain the appeal."^[9]

Dissatisfied with the CSC's ruling, the petitioner filed with the CA a petition for review raising the following issues:

1. Whether or not the Commission-NCR erred in denying the Appeal on its Resolution of March 24, 2008 filed by Petitioner for being arbitrary and

not supported by the evidence on record and therefore errors of law or irregularities have been committed prejudicial to the interest of the Petitioner; and

2. Whether or not the failure of her counsel to submit the position paper could be considered as fraud, accident, mistake or excusable negligence which would warrant the reinvestigation of the case to afford Petitioner the chance to explain her side in the first instance.^[10]

The Ruling of the CA

On June 30, 2009, the CA rendered its decision,^[11] declaring that the CSC properly dismissed the appeal from the CSC-NCR's decision since the same had already become final and executory. On the other matters raised in the petition, the CA ruled as follows:

Having resolved in the affirmative the issue of the propriety of the dismissal of petitioner's appeal to the CSC, we no longer find it necessary to resolve the other issue.^[12]

A motion for reconsideration filed by the petitioner was denied by the CA *via* a resolution^[13] dated January 4, 2010. Hence, this petition.

The Present Petition

The present petition includes a statement that it is appealing from the resolution of the CA. However, this Court observes that the issues being raised by the petitioner pertain to the rulings of the CSC-NCR and CSC rather than of the CA, to wit:

1. Whether or not the Commission-NCR erred in denying the Appeal on its Resolution of March 24, 2008 filed by Petitioner for being arbitrary and not supported by the evidence on record and therefore errors of law or irregularities have been committed prejudicial to the interest of the Petitioner; and

2. Whether or not the failure of her counsel to submit the position paper could be considered as fraud, accident, mistake or excusable negligence which would warrant the reinvestigation of the case to afford Petitioner the chance to explain her side in the first instance.^[14]

Further, the petitioner's prayer seeks a reversal or setting aside of the rulings of the CSC instead of the CA, as it reads:

WHEREFORE, it is respectfully prayed that this Honorable Court shall set aside and/or reverse the Resolution dated March 24, 2008 by Commissioner MARY ANN Z. FERNANDEZ[-]MENDOZA and a new one entered dismissing the above-mentioned Administrative Case for utter

lack of merit or in the alternative, remand the case to the Civil Service Commission-National Capital Region for further proceedings where the Petitioner shall be afforded the chance to adduce evidence in her behalf, in the interest of substantial justice.^[15]

We have earlier denied this petition *via* a Resolution^[16] dated October 5, 2010, in view of the petitioner's failure to comply with a lawful order of the Court when her counsel failed to file a reply as required under this Court's Resolution^[17] dated June 29, 2010. The petition's reinstatement was only allowed following the counsel for the petitioner's explanation in a motion for reconsideration dated November 17, 2010 that the belated filing of the reply occurred due to the fault of their office personnel who inadvertently misplaced a copy of this Court's resolution requiring the filing of a reply.

This Court's Ruling

We deny the petition.

The present petition does not comply with therequirements of Rule 45 of the 1997 Rules of Civil Procedure.

At the outset, it should be stressed that the petition is dismissible for non-compliance with substantial requirements under Rule 45 of the Rules of Court.

First, we cite that on March 16, 2010, this Court issued a resolution in relation to the petitioner's failure to include a statement of material dates in her petition as required under Rule 45, Sections 4 (b) and 5, the pertinent portions of which read:

Section 4. *Contents of the petition.* - The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall x x x (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; x x x.

Section 5. *Dismissal or denial of petition.* - The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.